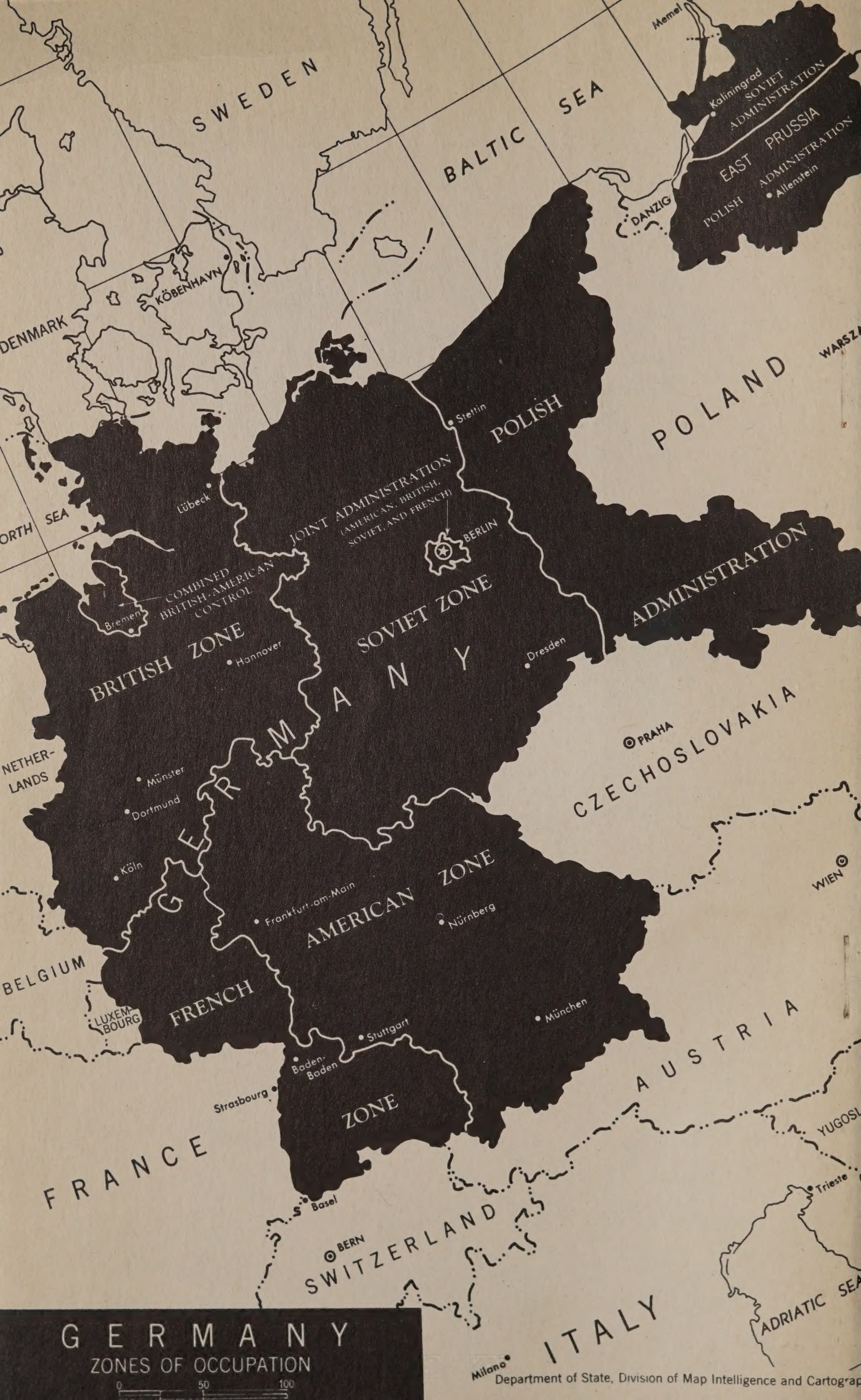
DD257
.U58

OCCUPATION OF GERMANY

Policy and Progress

DEPARTMENT OF STATE * UNITED STATES OF AMERICA

DD257
.U58


SWEDEN
BALTIC SEA
Memel
Kaliningrad
SOVIET ADMINISTRATION
EAST PRUSSIA
POLISH ADMINISTRATION
Allenstein
DANZIG
KÖBENHAVN
DENMARK
NORTH SEA
WARSZ
POLAND
Stettin
POLISH
ADMINISTRATION
Lübeck
JOINT ADMINISTRATION (AMERICAN, BRITISH, SOVIET, AND FRENCH)
BERLIN
COMBINED BRITISH-AMERICAN CONTROL
Bremen
BRITISH ZONE
Hannover
SOVIET ZONE
Dresden
GERMANY
PRAHA
CZECHOSLOVAKIA
NETHER-LANDS
Münster
Dortmund
Köln
WIEN
BELGIUM
Frankfurt-am-Main
AMERICAN ZONE
Nürnberg
LUXEMBOURG
FRENCH ZONE
München
Stuttgart
Baden-Baden
Strasbourg
AUSTRIA
YUGOSL
FRANCE
Basel
Trieste
BERN
SWITZERLAND
ADRIATIC SEA
ITALY
Milano
0
50
100

GERMANY
ZONES OF OCCUPATION

Department of State, Division of Map Intelligence and Cartograp

DD257
.U58

OCCUPATION OF GERMANY

Policy and Progress

1945-46

LIBRARY OF PRINCETON
DEC 7 1948
THEOLOGICAL SEMINARY

The Department of State
United States of America
Publication 2783

European Series 23

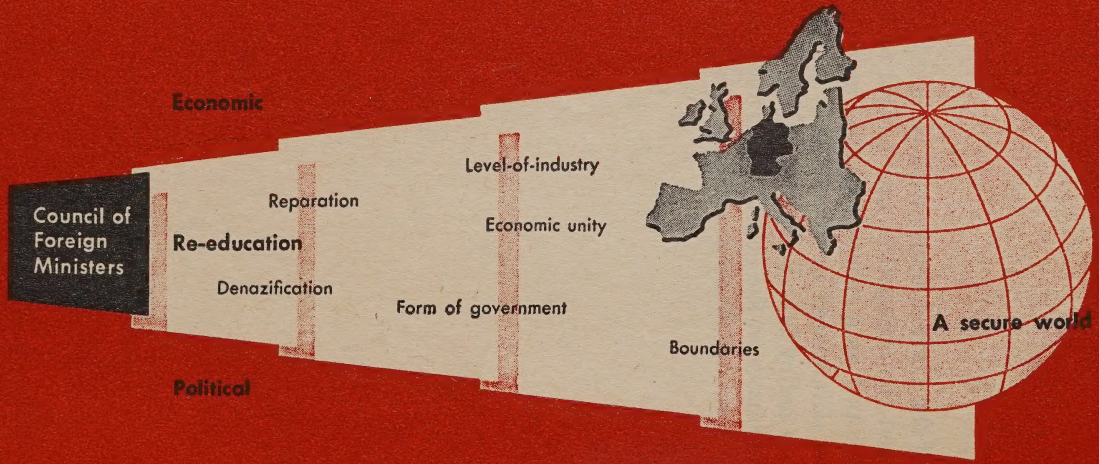
United States
Government Printing Office
Washington 25, D. C.

AUGUST 1947

FOREWORD

The policy of the United States with respect to Germany has, since the war, involved the occupation and control of that country. This policy has developed as a reaction to the rise of the Nazi regime in Germany which culminated in World War II. The prime objective of United States policy is to achieve the demilitarization and democratization of Germany to the end that Germany may ultimately take its place in the community of peaceful and law-abiding nations.

Germany and peace: a problem for united effort


Economic
Council of Foreign Ministers
Re-education
Reparation
Denazification
Political
Level-of-industry
Economic unity
Form of government
Boundaries
A secure world

CONTENTS

page
FOREWORD iii

THE GENESIS OF U.S. GERMAN POLICY
A. Guiding Objectives. 1
B. Formulation of Policy 1

UNITED STATES POLICY, 1945–46
A. Frontiers 6
B. Occupation and Control 8
    1. Control Council 8
    2. U.S. Zone Control 11
C. Demilitarization 13
D. Denazification. 16
E. War Criminals 21
F. Population Adjustments 24
    1. Repatriation of Germans 25
    2. Repatriation of Non-Germans 26
G. Economic Policy. 28
    1. Corrective Measures 30
        (*a*) Economic Disarmament 30
        (*b*) Reparation 32
        (*c*) Restitution 34
    2. Constructive Measures 35
        (*a*) Provision for Basic Needs 35
        (*b*) Revival of Peaceful Trade and Industry 40
        (*c*) Economic Unity of Germany 41
        (*d*) Long-Range Policy 42
H. Political Structure, Law, and Administration 43
    1. The Reactivation of Administration 45
        (*a*) The United States Zone 45
        (*b*) Other Zones 47
    2. The Future Character of the German State 48
I. The Revival of Political Life 50
    1. Basic Political Objectives 50
    2. The United States Zone. 52
        (*a*) Political Parties. 52
        (*b*) Elections. 55
        (*c*) Constitutions 55
    3. Other Zones 57
    4. The German Political Picture 58
J. Trade Unions and Labor Activities 59

page
K. Education, Information Control, and Religion . . . . 61 ✓
  1. Education and Youth Activities 62
  2. Information Control 65
  3. Religious Affairs 67

CONCLUSION: THE TASKS OF THE FUTURE 69

APPENDIXES

A. FRONTIERS

1. Potsdam Agreement, August 2, 1945 (excerpts) 73
2. Restatement of U.S. Policy on Germany: Secretary Byrnes' Stuttgart Address, September 6, 1946 (excerpt) 75

B. OCCUPATION AND CONTROL

1. Defeat and Assumption of Supreme Authority: Declaration of June 5, 1945 (excerpt) 79
2. Zones of Occupation: Statement of June 5, 1945 80
3. Control Machinery: Statement of June 5, 1945 81
4. Military Government: Directive to Commander in Chief (JCS 1067), April 1945 (excerpts) 82

C. DISARMAMENT AND DEMILITARIZATION

1. JCS 1067 (excerpt) 89
2. Additional Requirements: Agreement of September 20, 1945 (excerpts) 89
3. Potsdam Agreement (excerpt) 90
4. Law No. 154, OMGUS: "Elimination and Prohibition of Military Training", July 14, 1945 91
5. Control Council Order No. 4: "Confiscation of Literature and Material of a Nazi and Militarist Nature", May 13, 1946 (with amendment) 92
6. Control Council Law No. 8: "Elimination and Prohibition of Military Training", November 30, 1945 94
7. Control Council Law No. 23: "Prohibition of Military Construction in Germany", April 10, 1946 96
8. Control Council Law No. 25: "Control of Scientific Research", April 29, 1946 98
9. Control Council Directive No. 18: "Disbandment and Dissolution of the German Armed Forces", November 12, 1945 101
10. Control Council Directive No. 23: "Limitation and Demilitarization of Sport in Germany", December 17, 1945 103
11. Draft Treaty on the Disarmament and Demilitarization of Germany, April 29, 1946 104
12. Stuttgart Address, September 6, 1946 (excerpts) 107

D. DENAZIFICATION

1. JCS 1067 (excerpt) 111
2. Potsdam Agreement (excerpt) 112
3. Control Council Directive No. 24: "Removal from Office and from Positions of Responsibility of Nazis and of Persons Hostile to Allied Purposes", January 12, 1946 113

D. DENAZIFICATION—Continued

page
4. Directive, OMGUS: "Law for Liberation from National Socialism and Militarism", April 29, 1946 118
5. Law for Liberation from National Socialism and Militarism (U.S. Zone), March 5, 1946 (excerpt) 119
6. Control Council Law No. 2: "Providing for the Termination and Liquidation of the Nazi Organisations", October 10, 1945 . . . 120
7. Control Council Directive No. 38: "The Arrest and Punishment of War Criminals, Nazis and Militarists and the Internment, Control and Surveillance of Potentially Dangerous Germans", October 12, 1946 122

E. WAR CRIMINALS

1. Agreement for the Establishment of an International Military Tribunal, August 8, 1945 137
2. Charter of the International Military Tribunal (excerpt) 139
3. Statement by Justice Jackson: Opening Address, Nürnberg, November 21, 1945 (excerpts) 140
4. Control Council Law No. 10: "Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity", December 20, 1945 144

F. POPULATION ADJUSTMENTS

1. Potsdam Agreement (excerpt) 151

G. ECONOMIC AND REPARATION POLICY [1]

1. JCS 1067 (excerpts) 155
2. Potsdam Agreement (excerpt) 159
3. The Reparation Settlement and the Peacetime Economy of Germany: Statement by the Secretary of State, December 12, 1945 . 162
4. Stuttgart Address (excerpt) 165
5. Merger of U.S. and British Zones: Joint Statement by Secretary of State Byrnes and Foreign Secretary Bevin, December 3, 1946 . 169

H. LAW, POLITICS, AND ADMINISTRATION

1. Potsdam Agreement (excerpts) 177
2. Control Council Proclamation No. 3: "Fundamental Principles of Judicial Reform", October 20, 1945 178
3. Control Council Law No. 4: "Reorganisation of the German Judicial System", October 30, 1945 179
4. The Länderrat: Statute of the Länderrat of the U.S. Zone of Occupation, June 4, 1946 181
5. Press Release, OMGUS: Civil Service Codes, August 28, 1946 . . 186
6. Stuttgart Address (excerpts) 188
7. Constitution of the State of Hesse, December 1, 1946: Part I, Human Rights 191

I. LABOR

1. JCS 1067 (excerpt) 205
2. Control Council Law No. 21: "Law Concerning German Labour Courts", March 30, 1946 205
3. Control Council Law No. 22: "Works Councils", April 10, 1946 . 209

---

[1] For more complete documentation of economic policy see *United States Economic Policy Toward Germany* (Department of State publication 2630, European series 15), pp. 51–149. For British, French, and Soviet statements of policy see appendixes K–1, 2, 3.

J. EDUCATION

page

1. Policy Statement: Long-Range Policy Statement for German Reeducation, Prepared for the Department of State by a Committee of American Educators, August 21, 1946 . . . . 215✓
2. Education Mission: Summary of Recommendations, October 15, 1946 . . . . 216✓

K. BRITISH, FRENCH, AND SOVIET POLICIES TOWARD GERMANY

1. British Policy: Statement by British Foreign Secretary Bevin in House of Commons, October 23, 1946 (excerpt) 223
2. French Policy:
    - (a) Memorandum Presented to the Council of Foreign Ministers by the French Delegation, Paris, April 25, 1946 229
    - (b) Declaration to the Council of Foreign Ministers by the Minister of Foreign Affairs of the Provisional Government of the French Republic, Paris, July 10, 1946 233
3. Soviet Policy: Statement by Soviet Foreign Minister Molotov at Council of Foreign Ministers in Paris, July 10, 1946. 237

CHARTS AND MAPS

Zones of Occupation . . . . *inside front cover*
Germany and Peace: A Problem for United Effort IV
Allied Control Authority 9
Problem of Four-Power Control 10
Government in U.S. Zone 12
Demilitarization 14
War Crimes and Denazification 17
Displaced Persons 27
Pre-War German Economy 28
U.S. Economic Policy Toward Germany 29
Level-of-Industry Plan of March 1946. 31
Reparation 33
Per Capita Distribution of Rationed Food 37
Germany and the European Coal Deficit 38
Administrative Divisions 1947 44
Strength of Political Parties 56
Information 66
Territorial Claims 1947 7
International Boundary—Greater Germany . . . . *inside back cover*

THE GENESIS OF U.S. GERMAN POLICY

A. GUIDING OBJECTIVES

The policy of the United States toward Germany after the advent of the Nazi regime to power on January 30, 1933, was progressively influenced by the development of Nazi policy, which became more and more menacing to world peace and security. There was a steadily growing popular indignation at those actions of the Nazi Government which violated moral sensibilities, aroused fears for the general security, and threatened Europe with a new Armageddon.

On December 29, 1940, President Roosevelt issued a clear challenge: "The Nazi masters of Germany have made it clear that they intend not only to dominate all life and thought in their own country, but also to enslave the whole of Europe, and then to use the resources of Europe to dominate the rest of the world." In his address on the "four freedoms," January 6, 1941, and again in the Atlantic Charter, formulated with Prime Minister Churchill on August 14, 1941, Mr. Roosevelt set forth the acceptable principles of an enduring peace, for the attainment of which the "final destruction of the Nazi tyranny" was prerequisite.

The guiding objectives of the Government with respect to Germany were (1) the total destruction of the Nazi regime, and (2) insurance against the reappearance in the future of a regime or ideology calculated to disturb the general peace and security. More specifically, as the war progressed, the basic purposes of this Government with respect to Germany were, first, to effect the unconditional surrender of Germany and the destruction of its military power, and, secondly, to assure that Germany should never again become a menace to American security or to the peace of the world.

B. FORMULATION OF POLICY

The outbreak of war between the United States and Germany did little to alter official policy except to center the entire effort of the nation upon the military task of defeating the Nazis and their Axis associates. But there was from the first a keen awareness that the defeat of Germany alone would be insufficient to insure the attainment of our stated objectives. This war, the second against Germany within a generation, made doubly clear the necessity for a program of preventive and remedial measures applicable to a vanquished Reich.

There was a general realization that the German question was central to the whole problem of peace in Europe and to world security. The profound interest of the American people in this vital issue was a measure of their awareness of its gravity. The Government, particularly those officials who were entrusted with the formulation of policy, recognized conflicting yet sincere convictions among groups and individuals concerning the treatment of Germany, views ranging from a so-called "soft" to a "hard" peace for Germany. The official consensus, however, was that our German policy must be realistic, and that the best policies were those calculated to achieve most effectively the lasting pacification of Germany and the maintenance of world security.

The making of policy has been a continuing process since Pearl Harbor and will doubtless continue, perhaps for years, until the German problem in its long-term aspects has been fully dealt with. While the basic principles remain fixed, policy has had to adjust itself to current exigencies and unforeseeable situations. It has been necessary to coordinate U. S. policy with the policies of those governments associated with this nation in the war against Germany and in the occupation and administration of Germany. An effective policy for Germany must be a joint policy, and the necessity for maintaining Allied unity has been considered to be of primary importance.

During the course of the war the guiding principles of American policy toward Germany were set forth in a series of presidential declarations. In his message to Congress September 17, 1943 President Roosevelt asserted: ". . . there is one thing I want to make perfectly clear: When Hitler and the Nazis go out, the Prussian military clique must go with them. The war-breeding gangs of militarists must be rooted out of Germany—and out of Japan—if we are to have any real assurance of future peace. . . . We shall not be able to claim that we have gained total victory in this war if any vestige of Fascism in any of its malignant forms is permitted to survive anywhere in the world." In his address of December 24, 1943 the President reiterated his intention that Germany be "stripped of her military might and be given no opportunity within the foreseeable future to regain that might." The German people must be rid "once and for all of Nazism and Prussian militarism and the fantastic and disastrous notion that they constitute the 'master race'." But the United Nations "have no intention to enslave the German people. We wish them to have a normal chance to develop, in peace, as useful and respectable members of the European family."

Elaborating upon these purposes of the Allies in his address to the Foreign Policy Association October 21, 1944, the President declared that the Germans would not be left "a single element of military power—or of potential military power." But, he continued, "I should be false to the very foundations of my religious and political convictions, if I should ever relinquish the hope—and even the faith—that in all peoples, without exception, there live some instinct for truth, some attraction toward justice, and some passion for peace—buried as they may be in the German case under a brutal regime. We bring no charge against the German race, as such, for we cannot believe that God has eternally condemned any race of humanity. . . . There is going to be stern punishment for all those in Germany directly responsible for this agony of mankind. The German people are not going to be enslaved. . . . But it will be necessary for them to earn their way back into the fellowship of peace-loving and law-abiding nations."

In his last address touching upon the German problem, given before Congress March 1, 1945, Mr. Roosevelt dealt more specifically with the treatment of the vanquished enemy. Unconditional surrender and the destruction of Nazism, its laws and institutions, would be insisted upon. There must be complete disarmament of Germany, involving destruction of all armed forces and armaments and the eradication of militaristic influence from public, private, and cultural life. The General Staff would be dismembered. There must be speedy, severe, yet just punishment of war criminals. Reparations were to be made in kind. An economy adequate to sustain the German people should be retained, but no power to wage aggressive war.

Common policy with respect to Germany was developed in a number of conferences between the heads of government of the United States, Great Britain, and the Soviet Union. The most significant policy decisions were set forth in the Crimea declaration of February 11, 1945, and the Potsdam declaration of August 2, 1945.[1] The first of these followed closely the principles enunciated by President Roosevelt; it also provided for a reparation commission to exact compensation in kind for war damage. The second elaborated the political and economic principles to govern the treatment of Germany in the initial control period, and included agreements relative to reparation, disposition of eastern German areas, transfer of German populations, and punishment of war criminals.

The chief agency for coordinating Allied policy for Germany prior to surrender was the European Advisory Commission, created by the Moscow conference of November 1943. It included representatives of the United States, Great Britain, the Soviet Union, and, in its later stages, France. The Commission met in London from December 1943 to July 1945. Its principal achievements were the formulation of terms governing the surrender of Germany and the assumption of supreme authority by the four chief Allied powers, the determination of zones of occupation, the creation of control machinery, and the drafting of additional requirements to be imposed upon Germany after surrender. It was replaced after July 1945 by the Council of Foreign Ministers. Since July 1945 the Control Council and its subordinate agencies at Berlin have been the chief instruments for the working out of agreed quadripartite policy for Germany as a whole. In December 1946 the Council of Foreign Ministers agreed to place the German problem on its agenda for its meeting in Moscow on March 10, 1947.

---

[1] The most essential portions of these documents may be found in *The Axis in Defeat* (Department of State publication 2423).

Within the general framework of broad policy as set forth by the President and in international agreements, the Department of State, together with the War and Navy Departments, the Joint Chiefs of Staff, and other interested governmental agencies, has been active since early in 1942 in formulating policy directives dealing with the problems that have arisen in our treatment of Germany both before and after surrender. These have become the basis for military government in the United States zone. In some instances they have been submitted to the European Advisory Commission and to the Control Council as a basis for negotiation of joint policy.

The controlling directive for United States policy in Germany for the period immediately following Germany's defeat is JCS 1067,[2] formulated in definitive form in April 1945. This document includes a statement of general objectives and specific directions concerning the military, political, economic, and financial treatment of Germany. Although superseded in part by later directives and quadripartite agreements, it remains the most comprehensive statement of policy as applied in the areas of Germany under American jurisdiction.

The determination of policy governing so vast and complex a problem as the treatment of defeated Germany has, of necessity, been influenced by the course of events and by the interests and relationships of the controlling powers. Policies flowing from the wartime association of the United Nations and shaped by the major powers have largely been implemented. These relate to the immediate task of liquidating German military power and the sources of its strength, and are of short-term import. At the present time, after more than a year and a half of full quadripartite occupation and control, the long-range aspects of policy are assuming paramount significance. These aspects were dealt with concretely in a statement by Secretary of State James F. Byrnes at Stuttgart, Germany, on September 6,

---

[2] Joint Chiefs of Staff document 1067. Excerpts from this document may be found in the appendixes.

1946.[3] The task of reconstruction has barely begun and major decisions as to the future of Germany, its status in Europe, and its relationships with the major powers and the United Nations still await agreement at the intergovernmental level.

The difficulties in the problem of dealing with Germany have arisen from the threefold collapse which that nation experienced after defeat. There was a material collapse which saw German economy prostrate as a consequence of the destruction wrought by war and by last-ditch Nazi efforts to stave off defeat. Most of Germany's cities lay in ruins, industrial plants were devastated, and the homes of a large part of the population were reduced to rubble. There was a political collapse which resulted from the complete dissolution of the Nazi governmental system and left Germany a political vacuum. And there was a spiritual collapse which left the German people disillusioned with the ideals of National Socialism and groping blindly for a new faith and a valid way of life.

It was into this physical and moral chaos that the occupation armies moved. The degree of success or failure which the occupation has achieved must be reviewed in the light of the magnitude of the difficulties under which it was forced to operate.

---

[3] Excerpts from Mr. Byrnes' address, as they relate to various aspects of the German problem, may be found in the appendixes.

UNITED STATES POLICY, 1945–1946

A. FRONTIERS[1]

The frontiers of post-war Germany were left undetermined at the cessation of hostilities. For the time they were considered identical with those of December 31, 1937 (prior to the initial Nazi annexations). By the Potsdam agreement the United States agreed to support the cession of Königsberg and the adjoining northern portion of East Prussia to the Soviet Union at the forthcoming peace settlement. The remaining German areas east of a line following the Oder and Neisse Rivers from the Baltic Sea to the Czechoslovak frontier were assigned to Poland for occupation but with no commitments as to their ultimate status. The United States Government has agreed to support a revision of the former German-Polish frontier in Poland's favor in view of her territorial losses in the east, but does not feel itself committed to the cession of the entire Polish-occupied area to Poland.

In the west the United States is ready to support the French claim to the Saar, a district long closely bound by economic ties to France. But it is opposed to any detachment of the remaining Rhineland area or of the Ruhr district from Germany. It is felt that such action would undoubtedly be contrary to the desires of the population and would seriously jeopardize the economic viability of the new German state. The United States will favor such control of the Ruhr as may be deemed essential to the future security of Europe.

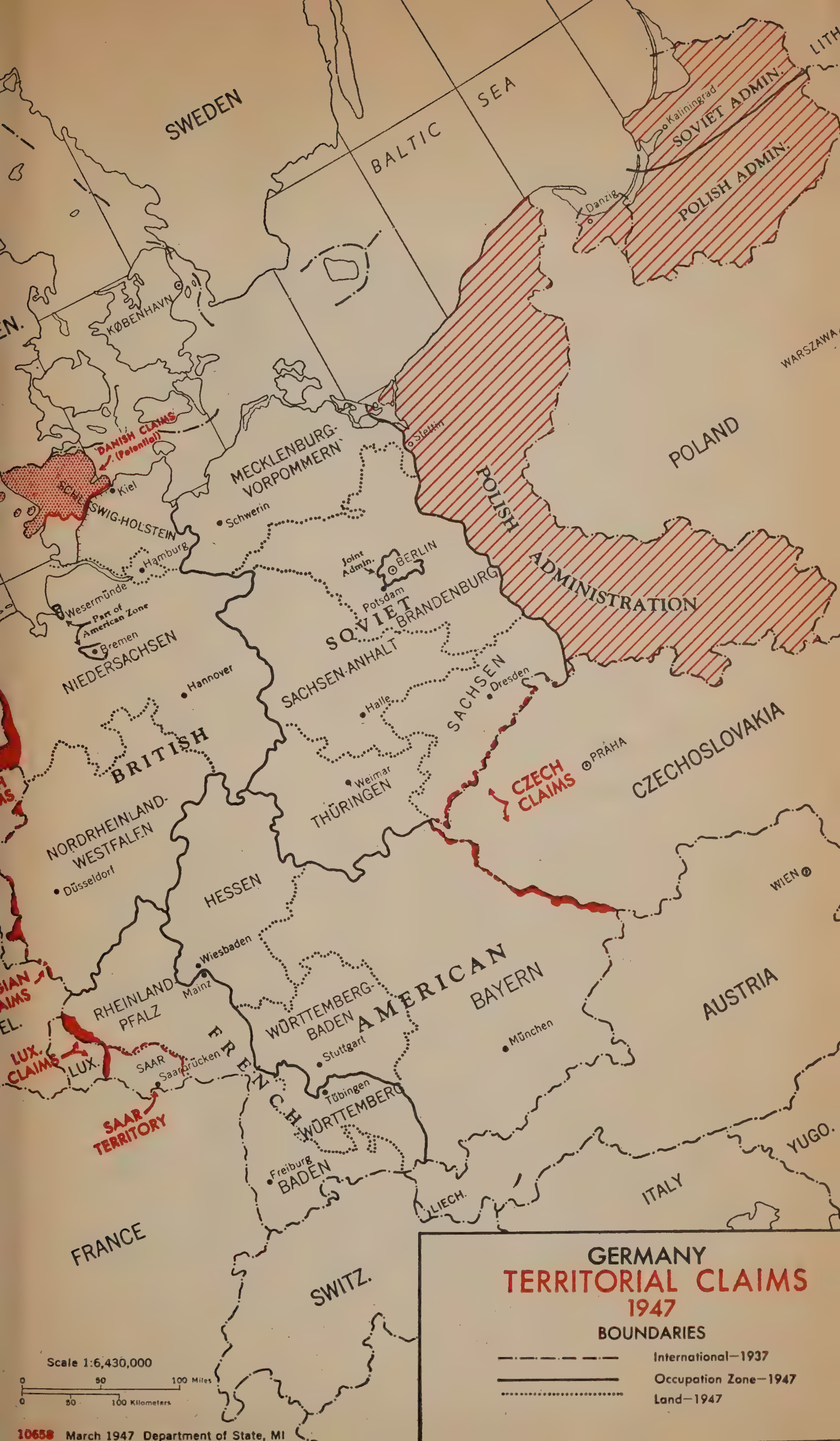
The United States has no commitments with respect to the remaining boundaries of Germany. It believes that the time is ripe to define the entire frontiers of the post-war German state and favors an early agreement among the powers to this end as a prerequisite to the resolution of the major German issues.

Austria is, by Allied agreement, to be constituted as a free and independent state, separate from Germany.

The drawing of the new German frontiers will be of vital importance not only to Germany but to Europe. By the end of 1946 the U.S.S.R., Poland, Czechoslovakia, France, Luxembourg, Belgium, and the Netherlands had asserted claims to Germany territory. The United States believes that all claims should receive a fair hearing,

---

[1] See appendix A.


SWEDEN
BALTIC SEA
LITH
Kaliningrad
SOVIET ADMIN.
POLISH ADMIN.
Danzig
WARSZAWA
KØBENHAVN
EN.
DANISH CLAIMS (Potential)
SCHLESWIG-HOLSTEIN
Kiel
MECKLENBURG-VORPOMMERN
Schwerin
Stettin
POLAND
POLISH ADMINISTRATION
Hamburg
Wesermünde
Part of American Zone
Bremen
NIEDERSACHSEN
Hannover
Joint Admin.
BERLIN
Potsdam
SOVIET
BRANDENBURG
SACHSEN-ANHALT
Halle
SACHSEN
Dresden
PRAHA
CZECHOSLOVAKIA
CZECH CLAIMS
BRITISH
Weimar
THÜRINGEN
NORDRHEIN-WESTFALEN
Düsseldorf
HESSEN
Wiesbaden
Mainz
WIEN
AMERICAN
BAYERN
AUSTRIA
RHEINLAND-PFALZ
WÜRTTEMBERG-BADEN
Stuttgart
München
FRENCH
LUX. CLAIMS
LUX.
SAAR
Saarbrücken
SAAR TERRITORY
Tübingen
WÜRTTEMBERG
Freiburg
BADEN
LIECH.
ITALY
YUGO.
FRANCE
SWITZ.
AS
GIAN CLAIMS
EL.

GERMANY
TERRITORIAL CLAIMS
1947

BOUNDARIES

—·—·—	International—1937
———	Occupation Zone—1947
········	Land—1947

Scale 1:6,430,000

0 50 100 Miles

0 50 100 Kilometers

10658 March 1947 Department of State, MI but is even more vitally concerned that the new frontiers of Germany be such as to insure the economic and political viability of the new state while at the same time offering no opportunity for future German aggression.

B. OCCUPATION AND CONTROL [2]

At the time of German defeat the major Allied powers were agreed that Germany should be completely occupied and German political, economic, and cultural life controlled until the Allied objectives for Germany had been achieved. The historic fact that the Reich of 1918–1933, never fully occupied and subject to only limited controls, had not been won to ways of peace, together with the entire disintegration of the German state power by May 1945, made the establishment of a system of total occupation and control logical and inevitable.

The unconditional surrender of the German High Command on May 7 and 8, 1945, was followed by the assumption of supreme authority with respect to Germany by the Governments of the United States, the U.S.S.R., the United Kingdom, and France on June 5. Exclusive of the areas east of the Oder-Neisse line, Germany was divided into four zones to be administered separately by the four powers. "Greater Berlin" was to be occupied jointly, each power occupying a sector of the city, and was to be governed by an inter-Allied authority (Kommandatura).

1. Control Council

For the coordination of policy in all zones and the determination of policy on matters affecting Germany as a whole, an Allied Control Authority was created, consisting of (*a*) a Control Council composed of the four Allied commanders in chief, (*b*) a Coordinating Committee composed of the four deputy commanders, and (*c*) a Control Staff consisting of 12 divisions or directorates, on which the four powers are equally represented. Decisions of the Control Council, as of each of the quadripartite organs, must be unanimous.

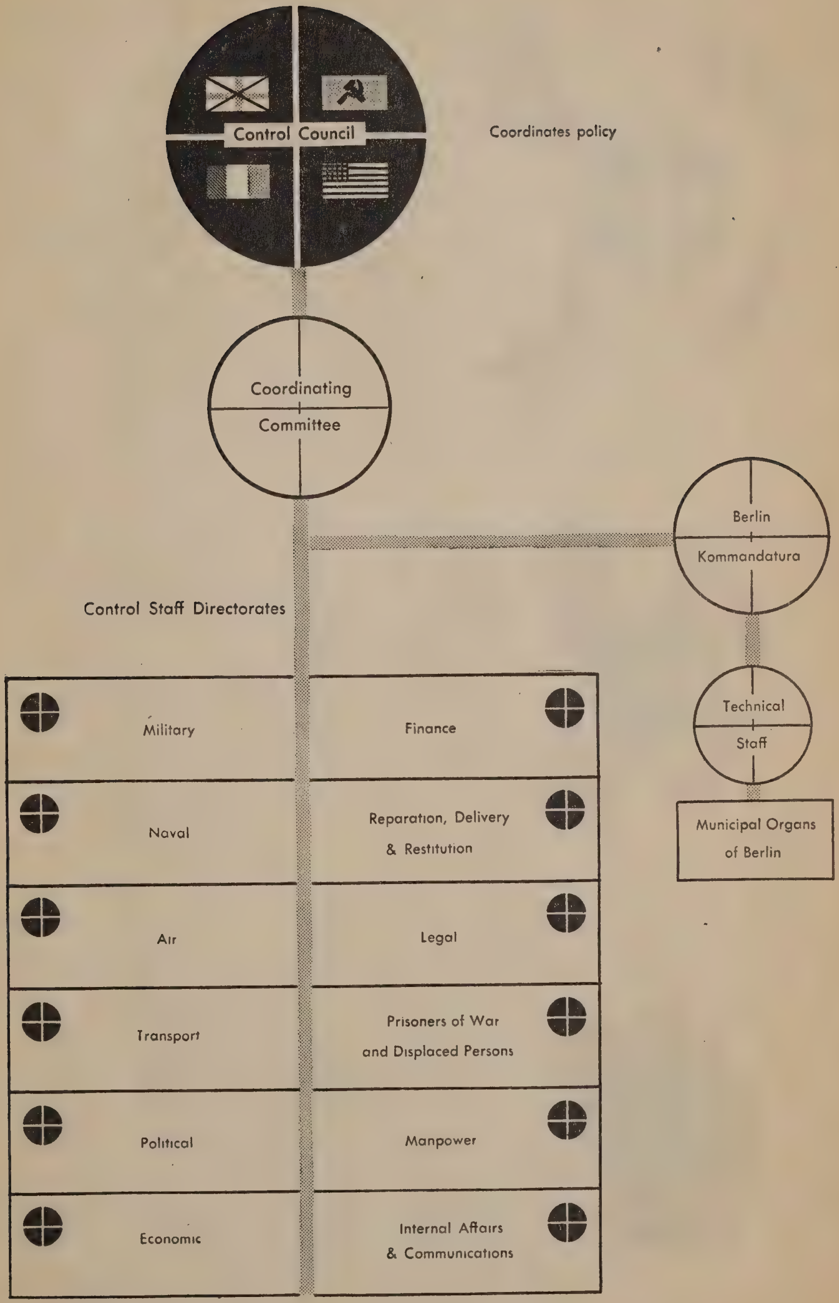
The Control Council is the repository of supreme authority in Germany and acts in lieu of a central German government. Liaison with 16 other United Nations governments has been established through military missions to the Council. The Council meets as a rule three times a month and considers a wide variety of problems suggested by the Staff and the Coordinating Committee.

Although a considerable number of laws, orders, and directives have been issued and some important agreements on basic issues have

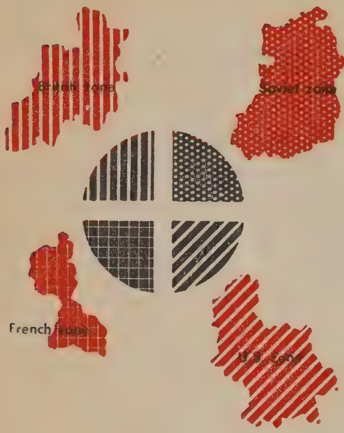
---

[2] See appendix B.

Allied Control Authority


Control Council
Coordinates policy
Coordinating Committee
Berlin Kommandatura
Technical Staff
Municipal Organs of Berlin
Control Staff Directorates
Military
Finance
Naval
Reparation, Delivery & Restitution
Air
Legal
Transport
Prisoners of War and Displaced Persons
Political
Manpower
Economic
Internal Affairs & Communications

Problem of four-power control


British zone
Soviet zone
French zone
U.S. zone

1 1945

Beginning of occupation and attempt at four-power rule. German government destroyed.

2 1946

Partial success for four-power control
Continuing unilateral administration in each zone

3 1947

Objective of U S. policy.

been reached, the divergent views of the occupant powers, especially on questions of interpretation and implementation of agreed policies, have thwarted joint policy and action. In a practical sense, Germany has come to be governed in separate compartments by the respective zonal commanders and a fully coordinated control of German affairs awaits further agreement at the intergovernmental level. Agreed four-power policies often merely prescribe general principles which are variously interpreted and applied in the respective zones. There have been agreements in principle on such fundamental questions as demilitarization, judicial reform, labor courts and works councils, reparations, industrial quotas, taxation, German foreign assets, control of scientific research, and the punishment of war criminals. At the same time the Council has failed to reach agreement in regard to labor organizations, nation-wide political parties, central economic administrations, foreign and internal trade, currency, land reform, education, and many other important matters. As Secretary of State Byrnes pointed out on September 6, 1946, in his address at Stuttgart: "So far as many vital questions are concerned, the Control Council is neither governing Germany nor allowing Germany to govern itself."

The effective control of Germany is exercised mainly by the respective zonal military governments which retain exclusive jurisdiction in all matters not covered by quadripartite agreements. Thus the zones have tended to become, to a considerable degree, self-contained political and economic units. A chief objective of United States policy is to eliminate zonal barriers and thus transform Allied control of Germany into a genuinely joint arrangement. A recent administrative union of the British and American zones for economic purposes was made fully effective January 1, 1947.[3]

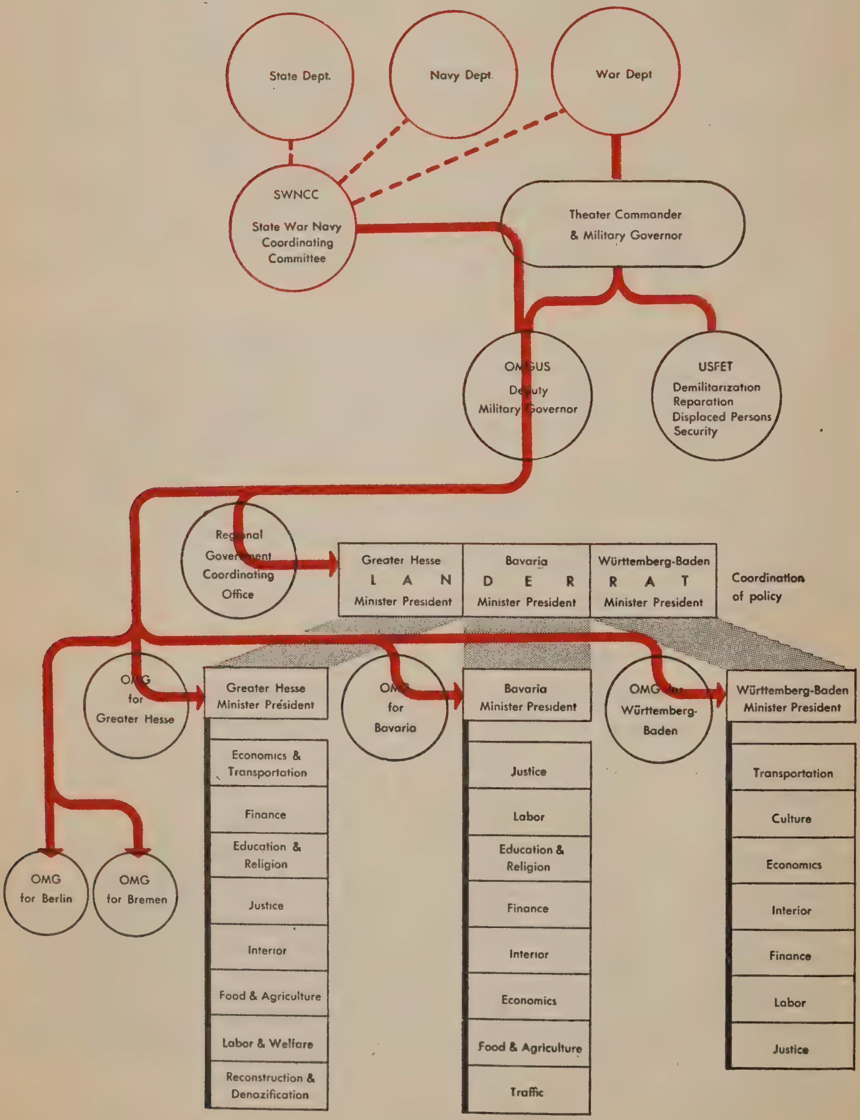
2. U. S. Zone Control

The United States zone, as well as the Bremen enclave and the United States sector of Berlin, is under the command of the United States Forces European Theater (USFET) with headquarters at Frankfurt (now renamed European Command). The functions of military government, at first exercised by USFET, were later undertaken by the Office of Military Government, United States (OMGUS), a separate organization with headquarters in Berlin. USFET retains jurisdiction only in matters relating to disarmament and demilitarization, security, displaced persons, and matters unrelated to civil control in Germany. OMGUS exercises a general surveillance over all German internal affairs, operating increasingly through approved German administrative agencies and personnel. There has been steady progress toward the "civilianizing" of OMGUS personnel, looking toward eventual control of Germany through Allied civilian agencies. This tendency has been far more pronounced in the British zone and least in evidence in the Soviet zone. OMGUS is the responsible agency for implementing United States policies as determined by the appropriate governmental agencies in Washington.

---

[3] See p. 41.

Government in U.S. zone


State Dept.
Navy Dept.
War Dept
SWNCC
State War Navy Coordinating Committee
Theater Commander & Military Governor
OMGUS
Deputy Military Governor
USFET
Demilitarization
Reparation
Displaced Persons
Security
Regional Government Coordinating Office
Greater Hesse
Minister President
Bavaria
Minister President
Württemberg-Baden
Minister President
L A N D E R R A T
Coordination of policy
OMG for Greater Hesse
OMG for Bavaria
OMG for Württemberg-Baden
OMG for Berlin
OMG for Bremen
Greater Hesse Minister President
Economics & Transportation
Finance
Education & Religion
Justice
Interior
Food & Agriculture
Labor & Welfare
Reconstruction & Denazification
Bavaria Minister President
Justice
Labor
Education & Religion
Finance
Interior
Economics
Food & Agriculture
Traffic
Württemberg-Baden Minister President
Transportation
Culture
Economics
Interior
Finance
Labor
Justice

The formulation of United States policy toward Germany has been assigned primarily to the Department of State. But because of the military character of the occupation and the security issues involved, the Joint Chiefs of Staff have shared largely in policy making, particularly in the drafting of basic military government directives. The most important questions involving security issues have been submitted for decision to the State-War-Navy Coordinating Committee (SWNCC). Other interdepartmental committees have advised on special aspects of German policy, and the various Washington agencies are constantly consulted on matters touching upon their particular jurisdictions. The War Department, as the agency charged with the immediate responsibility for the occupation and control of Germany, has exerted considerable influence both in the shaping of policy in Washington and in its application in the field.

C. DEMILITARIZATION [4]

The broad demilitarization policy of this Government has been to enforce complete disarmament and demilitarization of Germany and to achieve a reduction in and an effective control over Germany's capacity to make war. To these objectives may be added the purpose to eliminate the military caste and the militarist mentality which have made Germany a menace to the world. Every effort is to be made to drive home the fact of German defeat and of German responsibility for the miseries which the war brought to Germany and to other nations. It is intended that Germans shall be permanently disillusioned with war as an institution and as an instrument of national policy.

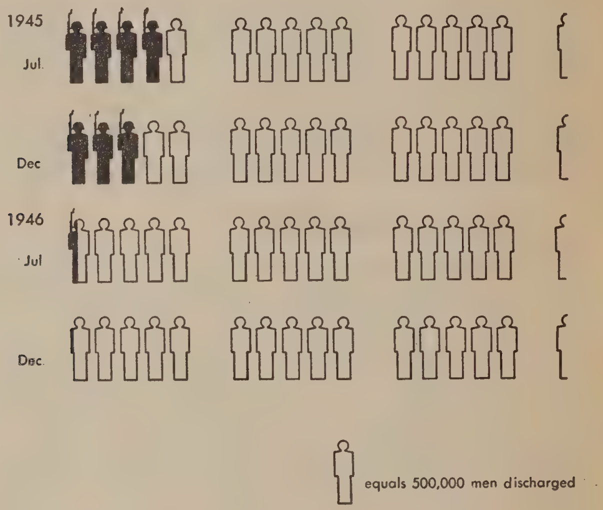
The physical task of demilitarization is largely completed. The Wehrmacht and all other military or para-military organizations have been dissolved in law and in effect. The German General Staff has been abolished, with safeguards against its reconstitution in any form. All arms, munitions, and implements of war have been destroyed or otherwise disposed of by the Allied authorities. Further German production of war materials has been prohibited. All German military, naval, and air units have been dissolved and disarmed. Of approximately 8,000,000 members of the armed forces at one time held by United States authorities, virtually all have been demobilized and either returned to Germany or assigned to the custody of other Allied governments. There is no further utilization of ex-members of the German armed forces by the United States Government for labor services, although such employment of considerable numbers continues by the Governments of France, Britain, and the Soviet Union, where a critical need still exists for reparation of the damage

---

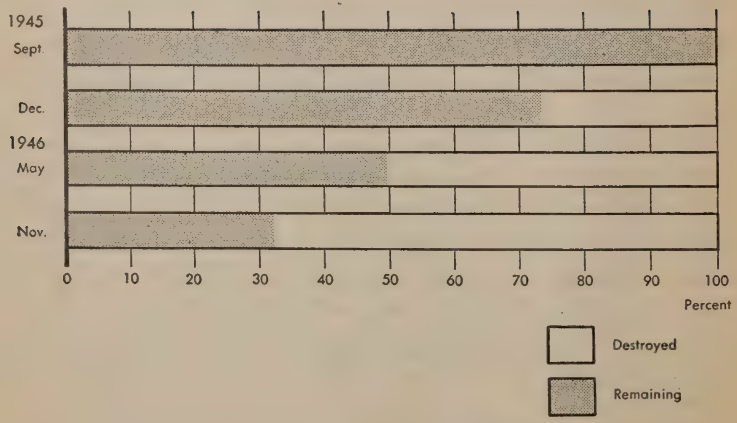
[4] A number of pertinent documents on demilitarization are given in appendix C.

Demilitarization

U.S. zone



Demobilization



Fortifications and defense works

wrought by the Wehrmacht.[5] The destruction of military installations is proceeding according to schedule. After a year of occupation, both Joseph T. McNarney, Commanding General of USFET, and his deputy, Lieutenant General Lucius D. Clay, reported that the destruction of Germany's military establishment was complete and that no physical military potential remained.

The economic and reparations program now in effect is designed to further German disarmament by (*a*) removing from Germany industrial plants and equipment peculiarly adapted to military uses, and (*b*) restricting German industrial output in fields closely related to war production to the needs of a peaceful economy or prohibiting certain categories of production altogether. Control Council Law No. 25 (May 7, 1946) provides for the prohibition of certain types of scientific research activity and extensive control over other types so that a war potential cannot be created under the guise of research in the fields of applied science. Law No. 23 bans all military construction in Germany.

A comprehensive prohibition (Control Council Law No. 8, November 30, 1945) has been enacted against all types of military education or training, and against all organizations or propaganda which might serve to keep alive the militarist spirit or glorify war. The wearing of military uniforms or insignia is banned. Control Council Order No. 4 (May 13, 1946) provides for the elimination from bookstores, schools, and public libraries of all literature of a militaristic nature or such as tends to prepare for or incite to war. Directive No. 30 requires the destruction and prohibits further erection of monuments symbolic of Nazism or militarism. The program of reeducation and information control has as a primary objective the combating of militarist indoctrination and the inculcation of peaceful ideals.

Law No. 34 (August 20, 1946) provides for the legal dissolution of the Wehrmacht and the repeal of all legislation relating to the German armed forces or quasi-military organizations.

The disarmament and demilitarization of Germany has proceeded steadily in all zones, although methods have varied somewhat and have given rise to some disagreement among the occupying powers. A Soviet proposal for an investigatory commission to report on the state of disarmament in all zones (amended by the United States representatives to include an examination of industrial disarmament) failed of adoption in the Control Council. More recently agreement has been reached upon a revised plan of investigation which has been put into operation.

---

[5] At the end of 1946 it was estimated that the number of German prisoners of war still in Soviet custody was 3,000,000; the French held about 600,000; and the British 400,000.

At the Council of Foreign Ministers at Paris, April 29, 1946, Secretary of State Byrnes submitted a draft treaty embodying United States policy on the long-range disarmament and demilitarization of Germany.[6] It provided that the four occupying powers undertake by treaty to insure the total disarmament and demilitarization of Germany "as long as the peace and security of the world may require". It would create a quadripartite Commission of Control to insure the continued observance by the Germans of all Allied requirements through a system of inspection after the termination of occupation. Any recognized German regime would be required to fulfil such requirements. A system of sanctions to enforce observance would be made operative. The treaty would remain in force for 25 years, subject to renewal if deemed advisable by the high contracting parties.

This draft proposal has not to date met with acceptance by all of the other occupying powers. It represents the views and intent of the United States Government with respect to the long-range control of Germany and is a standing offer which may be acted upon later when the more urgent issues arising from joint occupation and control have been resolved.

D. DENAZIFICATION[7]

The Allied governments were agreed from the beginning that the National Socialist Party, which had furnished the dynamic and sinister leadership in Germany's military revival, aggressions, and war crimes, must be completely destroyed and its members excluded from all posts of influence in the new Germany. The basic principles of a denazification program were laid down in JCS 1067 and the Potsdam agreement of August 2, 1945. These required the dissolution of the Nazi Party with its related organizations, the abrogation of the laws establishing the political and legal structure of the Nazi regime, sequestration of party property, arrest and punishment of Nazi leaders and important supporters, and exclusion of active Nazis from responsible posts in public and private life. Closely linked with denazification was the treatment of militarists, who as a class had cooperated closely with the party leadership in its aggressive designs.

These basic precepts were elaborated in military directives, first of SHAEF[8] and then of USFET (July 7 and August 15, 1945). Denazification was extended to persons in business and professional categories. As American troops proceeded with the occupation, there was an attempt to replace Nazi officials with Germans of anti-Nazi and democratic convictions. A number of Nazis were retained tem-

---

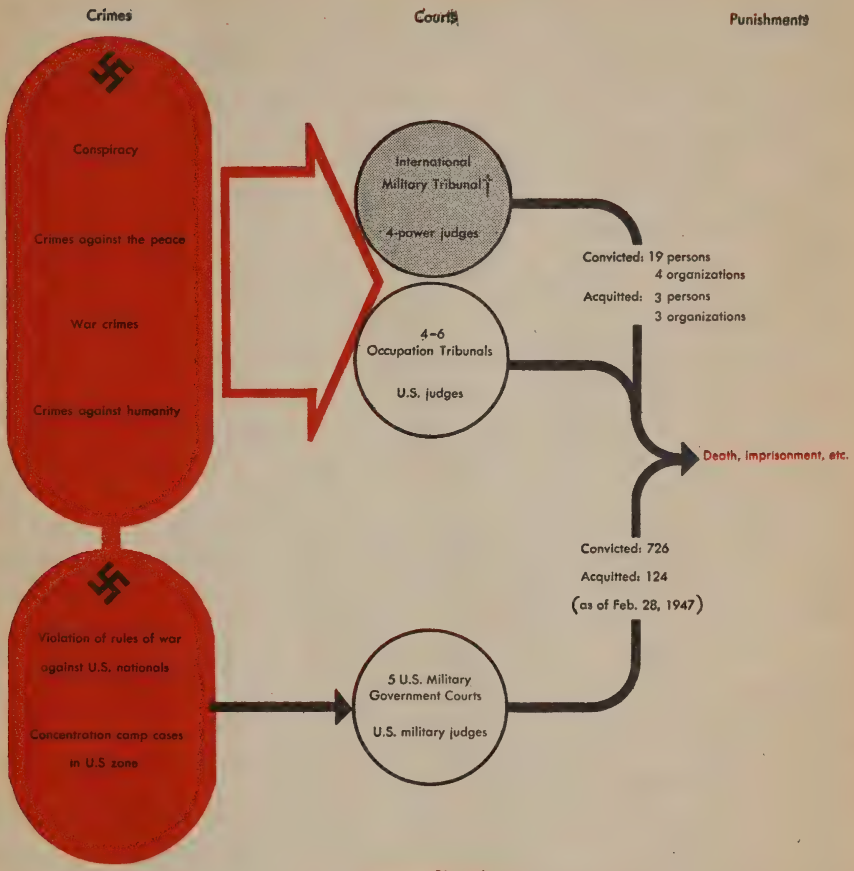
[6] See appendix C–11.

[7] For some of the basic laws and directives see appendix D.

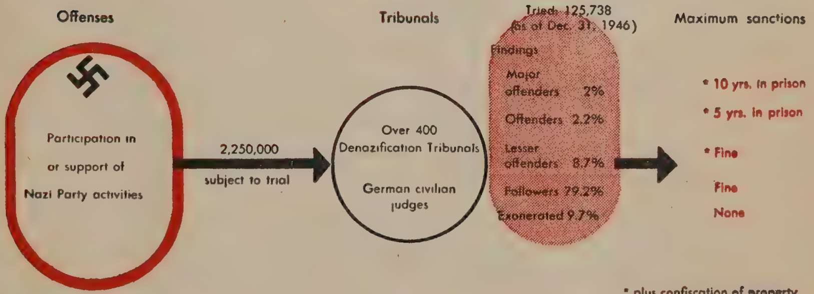
[8] Supreme Headquarters Allied Expeditionary Forces.

War crimes and denazification

War crimes


Crimes
Courts
Punishments
Conspiracy
Crimes against the peace
War crimes
Crimes against humanity
International Military Tribunal †
4-power judges
4-6 Occupation Tribunals
U.S. judges
Convicted: 19 persons
4 organizations
Acquitted: 3 persons
3 organizations
Death, imprisonment, etc.
Convicted: 726
Acquitted: 124
(as of Feb. 28, 1947)
Violation of rules of war against U.S. nationals
Concentration camp cases in U.S zone
5 U.S. Military Government Courts
U.S. military judges

Denazification


Offenses
Tribunals
Tried: 125,738 (as of Dec. 31, 1946)
Maximum sanctions
Participation in or support of Nazi Party activities
2,250,000 subject to trial
Over 400 Denazification Tribunals
German civilian judges
Findings
Major offenders 2%
Offenders 2.2%
Lesser offenders 8.7%
Followers 79.2%
Exonerated 9.7%
* 10 yrs. in prison
* 5 yrs. in prison
* Fine
Fine
None

* plus confiscation of property

† concluded

porarily because of the urgent need for their technical proficiency. *Fragebogen* (questionnaires) were required of all Germans in public or quasi-public posts and the screening of all public servants was undertaken. Persons falling in the mandatory arrest category (those suspected of being war criminals and persons considered dangerous to the occupation) were interned. The program was further extended by Military Government Law No. 8 (September 26, 1945) which banned the employment of members of the Nazi Party or affiliated organizations in business enterprises otherwise than "in ordinary labor". German employers were criminally liable for failure to remove Nazis. Appeal was authorized to review boards set up by local mayors or county directors under military government supervision. Thus was introduced the principle that Germans themselves should share responsibility for enforcement of denazification.

Policy progressed from initial indiscriminate removal of all Nazis to treatment by specified categories which classified the varying degrees of guilt or responsibility, and finally to painstaking consideration of individual cases. United States policy was largely incorporated in Control Council Directive No. 24 (January 12, 1946) which established uniform criteria governing the removal and exclusion of Nazis and militarists from public office or private employment in all zones. It indicated the precise categories of persons to be treated as "more than nominal participants in Party Activities" and as "hostile to Allied purposes". These were subject to compulsory removal or exclusion. In a second category were persons of more doubtful Nazi affiliation, who were subject to discretionary removal. A third group, with no record of participation in Nazi activity, might be freely employed. All cases were subject to future review.

American policy has consistently favored the strengthening of a democratic Germany by assigning important administrative functions to German governmental units as rapidly as their political reliability was clearly established. Accordingly, the three state governments of the U.S. zone were authorized to formulate and enact the "Law for Liberation from National Socialism and Militarism" of March 5, 1946. This implemented and extended Directive No. 24 and assigned primary responsibility for effecting the denazification program to German agencies.

The new German law was directed not only at exclusion of Nazis and militarists from important public and private posts but toward seeking out and punishing all culpable Nazis and militarists. Ministries of Political Liberation were created in each of the three German governments of the American zone (Bavaria, Greater Hesse, Württemberg-Baden), whose function is to enforce the law through appropriate administrative and investigative machinery. The law goes further than military government legislation in that other punishments than removal from office may be imposed upon guilty individuals. Four main instruments are provided. First is the registration and filling out of *Fragebogen* of every German over 18 years of age. Second is the machinery for executing the law—the Ministries of Liberation, the trial and appellate tribunals to decide classification and sanctions in each instance, the public prosecutors responsible for investigation and prosecution of each case. Third is the detailed classification of all persons under the general groupings of "major offenders", "offenders", "lesser offenders", "followers", and "persons exonerated". Fourth is the provision for the imposition of sanctions, such as imprisonment, forced labor, fines, debarment from certain occupations, ineligibility for public office, loss of civil or political rights, etc., upon each class of offenders commensurate with their degree of culpability. The law, in effect, constitutes a criminal code on Nazism and militarism.

This law has progressively supplanted the earlier military government regulations, rescinded June 14, 1946, and the occupation authorities have retained only a supervisory role in relation to its enforcement. Although the wisdom of allocating so vital a function to the Germans has been debated and there is substantial opposition to the law in some German quarters, a vigorous effort is being made to enforce it effectively yet justly. Enforcement is handicapped by lack of competent judicial personnel. Opposition is most general in Bavaria, where conservative elements are aroused over the alleged arbitrary application of the law in individual cases and also over its somewhat revolutionary implications for economic and political life.[9]

On October 12, 1946, the Control Council approved Directive No. 38, designed to establish a uniform policy for the classification and punishment of war criminals, Nazis, militarists, and industrialists who supported the Nazi regime.[10] It is based largely on the U.S. zonal law of March 5, 1946. It provides for "the complete and lasting destruction of Nazism and Militarism" through imprisonment of or restrictions upon active Nazis, their supporters, or other persons dangerous to Allied objectives. It sets up the same five categories as the U.S. zone law and provides for sanctions ranging from minor civil disabilities for "followers" to as much as ten years' imprisonment or even the death penalty for persons in the first two categories. Enforcement of this directive is left to the respective zonal commanders. This directive, to some extent, gives quadripartite approval to the denazification procedures previously introduced in the U.S. zone.

---

[9] The strict enforcement of the law would result in the elimination of many leaders of the former dominant classes from posts of influence and thus transfer power to groups unaccustomed to its exercise.

[10] See appendix D–7.

By April 1946 military government in the U.S. zone had nearly completed the processing of *Fragebogen* (91 percent) and 337,000 persons had been removed or excluded from office. Thereafter denazification was primarily in German hands. Under the law of March 5, 11,674,152 registrations were received by January 1, 1947. There were then 425 tribunals of first instance in operation, with 135 public prosecutors. By the end of 1946, 125,738 persons had been tried.

Security arrests of dangerous Nazis and others in the mandatory arrest group in the U.S. zone have numbered more than 120,000. By September 1946, Security Review Boards had released 39,842, while 83,000 were still under detention. Internee camps, except for a few containing security and war-criminal suspects, had been turned over to the German authorities by November. At the end of 1946 there remained 46,000 security cases to be dealt with.

In July 1946 military government granted an amnesty to German youth born between January 1, 1919, and March 5, 1928, including 345,000 nominal party members. The purpose was to offer encouragement to German youth and the opportunity, denied them during their impressionable years, to understand and develop a democratic way of life. On December 24, 1946, General McNarney further extended the terms of the amnesty to some 800,000 persons who were not chargeable under the law as major offenders or offenders and whose financial status was conclusive evidence that they had not profited from the Nazi regime. Persons in the above category who were more than 50 percent disabled were also included in the amnesty.

Denazification is proving a slow and difficult process; certain Nazi elements remain entrenched in various sectors of public life and constitute a continuing threat to the attainment of the objectives of the occupation. The application of the law in the U.S. zone has been handicapped by an acute shortage of qualified and politically reliable personnel. The wide scope of the law, affecting directly or indirectly some 40 percent of the population, creates fear and opposition. There is a wide-spread feeling among the Germans that the law is arbitrary in its application and that nominal or minor Nazis should be excluded. Local sentiment often obstructs effective enforcement. There is fear of Nazi reprisal if the law is rigidly enforced, due often to doubt concerning the length of the occupation.

Matters reached a critical stage in Bavaria in July 1946, when the Ministry for Denazification was reorganized and many prosecutors and members of the purge chambers were dismissed. All completed cases were to be reexamined. Courts throughout the zone were found to have been unduly lenient in their findings, often reversing earlier military government verdicts relating to major offenders. By the fall of 1946 the slowness of court procedure and the leniency of the decisions caused a general fear of a breakdown of the operation of the law. At a special session of the Council of Ministers-President on November 5, 1946, General Clay rebuked German officials for the lax enforcement of the law and declared that its operation in the hands of the German authorities was a vital test of democracy. He warned that military government would take necessary steps to eliminate Nazi influence if the Germans proved unwilling or unable to do so. He declared that thereafter no person once removed from office by military authorities could be reinstated by the German courts.

Denazification remains one of the most difficult tasks of the occupation. It is essential to eliminate the most arbitrary features of the present procedure, to enlist anti-Nazi sentiment in support of the law, to deal more intelligently with individual cases so as to avoid patent injustice, and to secure qualified personnel not only to man the tribunals but to replace dismissed Nazis in all essential posts. And a most serious difficulty arises from the tendency of ex-Nazis to coalesce into a dissentient group and thus form the hard core of a neo-Nazi resistance to the occupation authorities. No adequate method has as yet been found to assimilate this group into German civic life or to prevent it from becoming a dangerous focus of unrest and opposition.

E. WAR CRIMINALS

Early in the war it became generally agreed by the Allied governments that Axis leaders guilty of war crimes should be duly proceeded against and punished for their acts. As early as October 1942 the British and United States Governments agreed on the establishment of a United Nations Commission for Investigation of War Crimes. Punishment of responsible individuals by due legal process, not mass reprisal, was the objective of Allied policy. By joint declaration of the British, Soviet, and United States Governments from Moscow, November 1, 1943, Germans responsible for atrocities against Allied populations were to be sent to the countries where their crimes were committed for trial and punishment. On August 8, 1945, the American, British, French, and Soviet Governments agreed at London to create an International Military Tribunal for the trial of major war criminals. The charter providing for this court specified that its jurisdiction should extend to three categories of acts: crimes against peace (such as planning, preparing, initiating, or waging a war of aggression or in violation of treaties, or conspiring to do so), war crimes, and crimes against humanity.[11]

---

[11] For full text of charter see *Trial of War Criminals* (Department of State publication 2420), pp. 15–21.

The International Military Tribunal conducted the trial of 22 German political and military leaders at Nürnberg from November 1945 to September 1946. This trial was unprecedented in that it brought not only leaders of a government but also large groups and organizations before an international court of law on criminal charges. As Justice Robert H. Jackson, Chief of Counsel for the United States, declared in his opening statement on November 21, 1945, the trial was a pioneer effort to extend the rule of law to persons who had usurped and misused the prerogatives of a sovereign state, an attempt to "reach the planners and designers, the inciters and leaders without whose evil architecture the world would not have been for so long scourged with the violence and lawlessness . . . of this terrible war." An extensive indictment based upon a vast range of documentary evidence was presented.[12] Justice Jackson, while deploring the fact that the victors must, of necessity, judge the vanquished, made a plea for "detachment and intellectual integrity" to insure a fair trial. "We must never forget", he declared, "that the record on which we judge these defendants today is the record on which history will judge us tomorrow."[13]

After a trial of ten months' duration which elicited world-wide publicity for this unprecedented attempt to hold the responsible leaders of a sovereign state accountable for their official acts, the judgment of the tribunal was rendered on September 30, 1946, and sentences were imposed the following day. Göring, Von Ribbentrop, Keitel, Kaltenbrunner, Rosenberg, Frank, Frick, Streicher, Sauckel, Jodl, Seyss-Inquart, and Bormann were sentenced to death by hanging. Prison sentences were imposed on Hess, Funk, Dönitz, Raeder, Von Schirach, Speer, and Von Neurath. Schacht, Von Papen, and Fritzsche were acquitted. Certain categories of the Leadership Corps of the Nazi Party, as well as auxiliary organizations of the regime, were found to be criminal. Included were the Elite Guard (SS), the Security Service (SD), and the Gestapo. This judgment excluded members who had no knowledge of the criminal purposes or acts of the organizations, or who were drafted by the state for membership (unless they were personally implicated in criminal acts), or who ceased to be members prior to September 1, 1939. The tribunal declined to hold criminal within the meaning of the charter the Reich Cabinet, the General Staff and High Command, or the Storm Troopers

---

[12] This evidence has been published in *Nazi Conspiracy and Aggression* (U.S. Government Printing Office, Washington, 1946), vols. I–VII. See also *Trial of War Criminals* (Department of State publication 2420), pp. 23–89.

[13] For excerpts from Justice Jackson's opening statement, see appendix E–3.

(SA). Death sentences were executed on October 16, 1946, all pleas for clemency having been rejected by the Control Council.[14]

The treatment of war criminals not tried before the International Military Tribunal is provided for in Control Council Law No. 10 (December 20, 1945).[15] Zonal commanders may arrange for trial of indicted persons before military or other tribunals within their respective zones. Acts of German nationals against other Germans, or stateless persons, may be tried in German courts if so authorized. Accused persons may be transferred to other zones or outside Germany when so required.

In implementation of Law No. 10, Military Government Ordinance No. 7 was enacted in the U.S. zone of Germany. This ordinance provides for the establishment of tribunals consisting of three or more members appointed by the Military Governor to try persons charged with offenses recognized as crimes by Law No. 10.

Military tribunals operating under the theater judge advocate are engaged in trying concentration-camp personnel charged with mass atrocities and persons charged with specific offenses against U.S. military personnel.

In accordance with the United States policy of effecting maximum transfer of authority to German governmental officials, many of the cases of war criminals may be handled by the German authorities. In this connection, two laws enacted in each of the three *Länder* of the U.S. zone are relevant: (1) "Law for Liberation from National Socialism and Militarism" of March 5, 1946 and (2) "Law Concerning the Punishment of National Socialistic Criminal Acts" of June 15, 1946. The principles embodied in the former law, as noted above, have now been made applicable to all of Germany by Control Council Directive No. 38. Military government jurisdiction is, however, superior to that of the German authorities, and any case which the military authorities desire to handle will be tried by them.

In evaluating the accomplishments of the Nürnberg trial in his report to the President, Justice Jackson has pointed out that the London agreement "devised a workable procedure for the trial of crimes which reconciled the basic conflicts in Anglo-American, French, and Soviet procedures". He paid tribute to "the steadfast purpose of all delegations that this first international trial should prove the possibility of successful international cooperation in use of the litigation process . . . ."

---

[14] See also *The Nürnberg Judgment: A Summary* (Department of State publication 2727, European series 19).

[15] See appendix E–4.

"In a world torn with hatreds and suspicions where passions are stirred by the 'frantic boast and foolish word,' the Four Powers have given the example of submitting their grievances against these men to a dispassionate inquiry on legal evidence," said Justice Jackson.

"By the Agreement and this trial we have put International Law squarely on the side of peace as against aggressive warfare, and on the side of humanity as against persecution. In the present depressing world outlook it is possible that the Nürnberg trial may constitute the most important moral advance to grow out of this war. The trial and decision by which the four nations have forfeited the lives of some of the most powerful political and military leaders of Germany because they have violated fundamental International Law, do more than anything in our time to give to International Law what Woodrow Wilson described as 'the kind of vitality it can only have if it is a real expression of our moral judgment,'" concluded Justice Jackson.

In November 1946 Judge Francis Biddle, the American member of the tribunal, suggested to the President that the time had come to set about drafting a code of international law. The President responded to Judge Biddle, "I hope that the United Nations, in line with your proposal, will reaffirm the principles of the Nürnberg Charter in the context of a general codification of offenses against the peace and security of mankind." Upon proposal by the United States delegation, the United Nations General Assembly in December 1946 affirmed the principles of international law recognized by the Charter of the Nürnberg tribunal and the judgment of the tribunal. It directed "the Committee on the codification of international law established by the resolution of the General Assembly of December 1946 to treat as a matter of primary importance plans for the formulation, in the context of a general codification of offenses against the peace and security of mankind, or of an International Criminal Code, of the principles recognized in the Charter of the Nuremberg tribunal and in the judgment of the tribunal."

F. POPULATION ADJUSTMENTS

The war left a heritage of displaced, often homeless, people in Europe. Two major demographic problems are involved in the consolidation of the new Germany: first, the transfer and resettlement of German nationals excluded from eastern European areas, and second, the repatriation of displaced persons of non-German citizenship resident in Germany at the close of the war.

1. Repatriation of Germans

During the later stages of the war there was a large-scale exodus of German nationals from the former German-occupied eastern areas of Europe to Germany. After Germany's defeat the Governments of Poland and Czechoslovakia announced their intent to exclude the greater part of the German population from their territories. Poland, viewing the Oder-Neisse line as its permanent frontier, was resolved in addition to expel all Germans from the occupied German zone east of this line. Moreover there were considerable numbers of persons of German ancestry and culture to be repatriated from the Baltic area, Danzig, Austria, Hungary, and Yugoslavia. Including "cultural Germans" (*Volksdeutsche*) some 15,000,000 or more persons were involved. While it is unlikely that anything like this total will ever be transferred within the shrunken frontiers of post-war Germany, a considerable number must be absorbed.

The United States, although not viewing with favor the unilateral or indiscriminate expulsion of Germans from the east, has approved the transfer to Germany of German populations "or elements thereof" in order to avoid the rise of dangerous minority problems in the states concerned. At Potsdam it was agreed that such transfers "should be effected in an orderly and humane manner" and that there should be an equitable distribution of such persons among the zones of occupation. On November 20, 1945, the Control Council approved a plan of removals from Poland, Czechoslovakia, Austria, and Hungary. The tentative schedule provided transfers as follows:

To the Soviet zone:
    2,000,000 from Poland
    750,000 from Czechoslovakia
To the British zone:
    1,500,000 from Poland
To the United States zone:
    1,750,000 from Czechoslovakia
    500,000 from Hungary
To the French zone:
    150,000 from Austria

The total of 6,500,000 Germans were to be transferred by August 1, 1946.

Transfers have lagged far behind schedule and are still incomplete. Considerable numbers of skilled German workers have been retained temporarily by the Czech and Polish Governments. By the end of 1946 the U.S. zone had received 1,626,600 expellees under the Control Council plan, and in addition about 1,000,000 others, largely from

Poland. The total of expellees and voluntary refugees in all zones by January 1, 1947, was estimated at over nine million. In the U.S. zone each *Land* government has a ministry charged with the resettlement of refugees. United States policy is directed toward the full assimilation, political, social, and economic, of all refugees in the communities to which they are assigned.

2. Repatriation of Non-Germans

Wartime Germany contained an alien labor force (exclusive of prisoners of war) estimated at six to seven millions. Allied policy at the end of the war demanded the repatriation of this population, most of whom were United Nations nationals. These and other "displaced persons", including liberated political prisoners, were to be assigned to camps under military government control and granted certain priorities over the German population as to food and medical care pending their repatriation. Later the United Nations Relief and Rehabilitation Administration took over the camps and supervised the care of displaced persons thereafter.

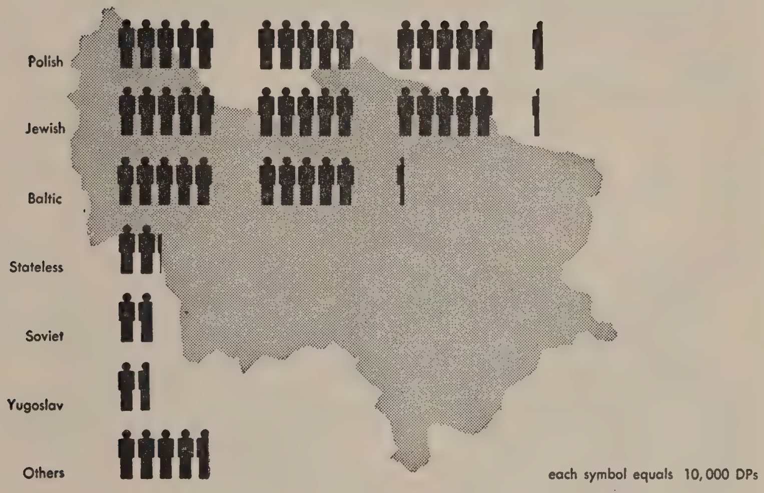
By October 1945 five and a quarter million persons had been repatriated from the three western zones, while about one million still remained. By June 1, 1946, 2,834,242 displaced persons had been repatriated from the U.S. zone, with half a million yet on hand. Of these about 70 percent were estimated to be non-repatriables.[16] Since then repatriation has proceeded slowly, largely because of the unreadiness of United States authorities to resort to forced removal of persons unwilling to be repatriated. Polish nationals constitute the largest element of the remaining displaced persons. In addition there were, in September 1946, some 400,000 refugees in the U.S. zone, i. e. persons who had entered the zone without authorization. The disposal of these people represents one of the most difficult and as yet unsolved problems of the occupation authorities.

The final outcome of this two-way transfer of displaced persons, German and non-German, into and out of Germany, will apparently be a net increase in the population over the pre-1939 figure. Unofficial returns from the October 1946 census place the German population at about 65,200,000, but this number will probably be considerably augmented when transfers from eastern areas and return of prisoners of war are complete. This population must live in a Germany substantially reduced in size (if the Oder-Neisse line prevails, an area of 142,000 square miles as against 181,000 square miles in 1937). The absorption of millions of refugees into a diminished area will be slow

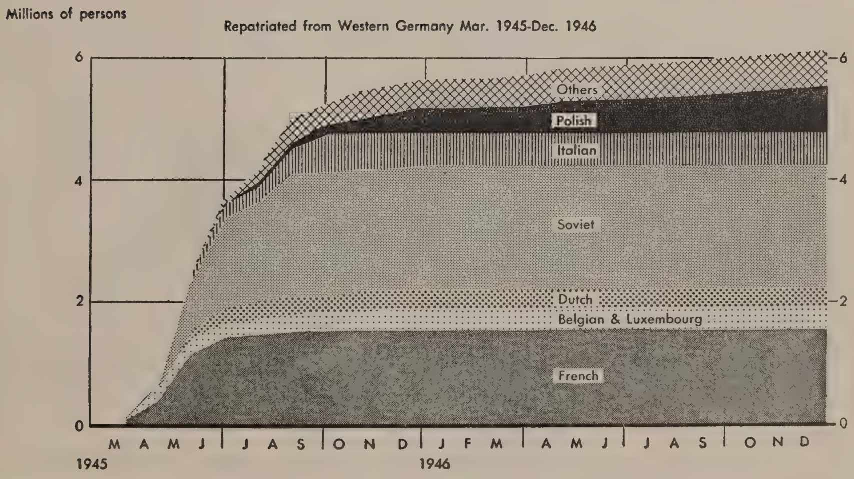
---

[16] Persons are considered to be non-repatriable if unacceptable to their country of origin or if unwilling to be repatriated. The United States does not sanction compulsory repatriation as a general rule.

Displaced persons


Nationalities in U.S. zone Dec. 31, 1946

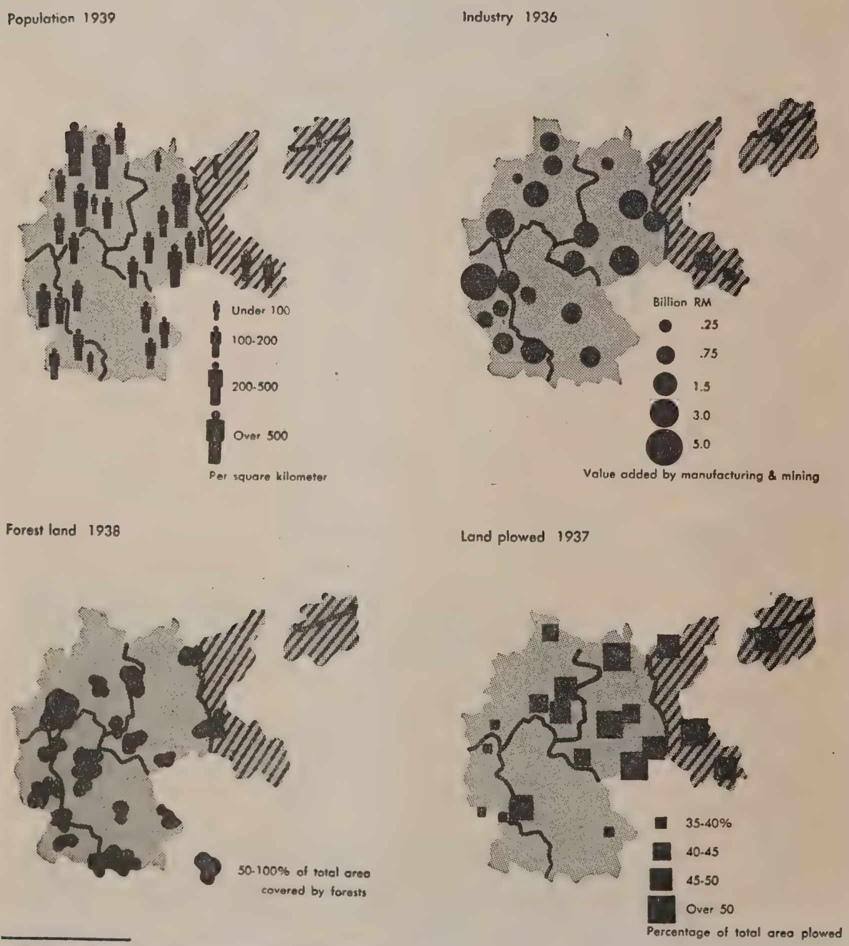
each symbol equals 10,000 DPs


Repatriated from Western Germany Mar. 1945-Dec. 1946

and difficult and will greatly complicate the tasks of economic stabilization and revival. The existence of a population possibly exceeding 70 million within an area smaller than the State of California will present serious economic and security problems that must engage the attention of the victor states for years to come.

G. ECONOMIC POLICY[17]

Allied economic policy toward Germany has recognized the relation of the German economy both to German aggression in the past and



Pre-war German economy

Population 1939

Industry 1936

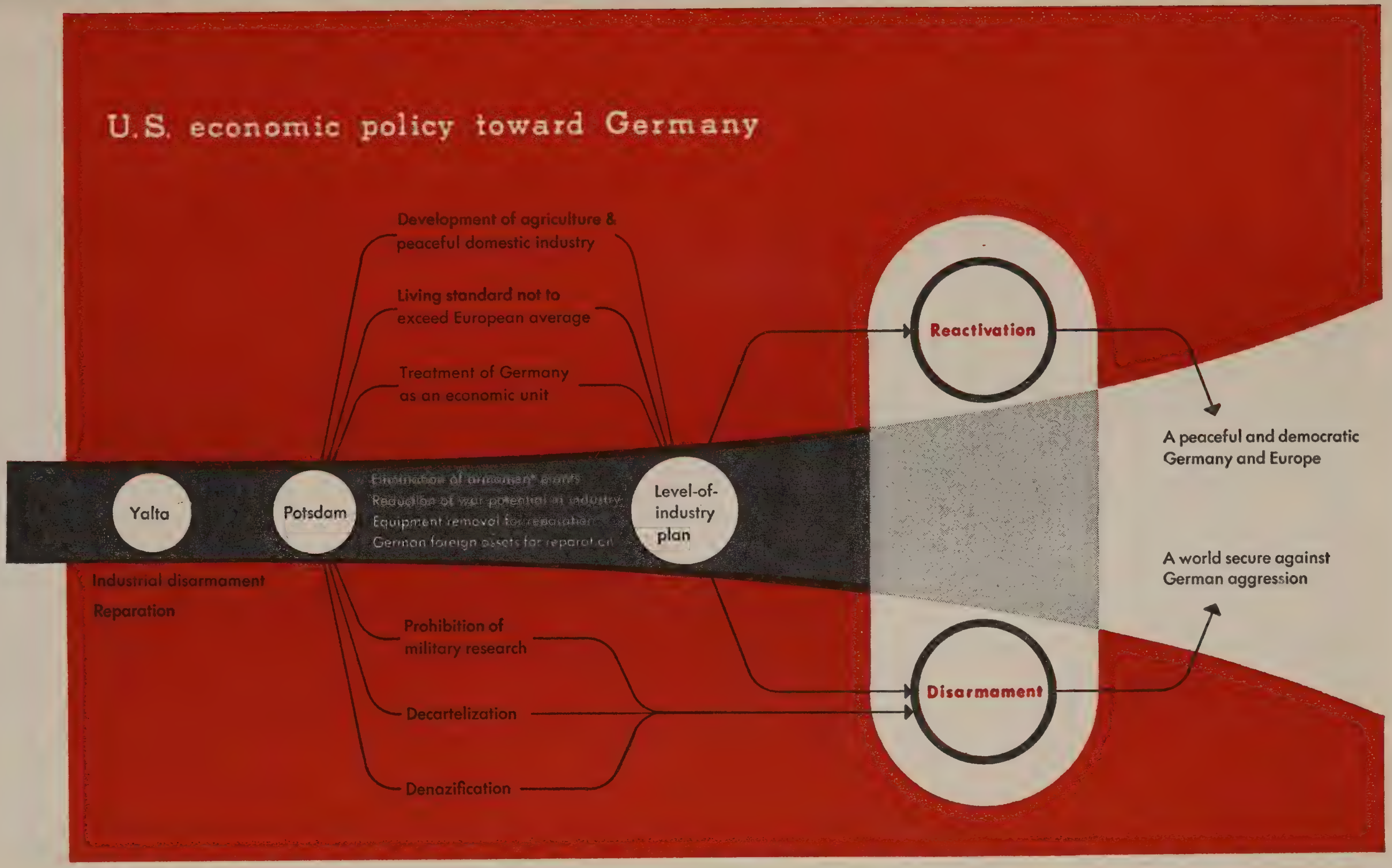
Forest land 1938

Land plowed 1937

Under 100
100-200
200-500
Over 500
Per square kilometer
Billion RM
.25
.75
1.5
3.0
5.0
Value added by manufacturing & mining
50-100% of total area covered by forests
35-40%
40-45
45-50
Over 50
Percentage of total area plowed

---

[17] For a fuller treatment see *United States Economic Policy Toward Germany* (Department of State publication 2630, European series 15).



U.S. economic policy toward Germany

Yalta
Industrial disarmament
Reparation
Potsdam
Development of agriculture & peaceful domestic industry
Living standard not to exceed European average
Treatment of Germany as an economic unit
Elimination of armament plants
Reduction of war potential in industry
Equipment removal for reparation
German foreign assets for reparation
Prohibition of military research
Decartelization
Denazification
Level-of-industry plan
Reactivation
Disarmament
A peaceful and democratic Germany and Europe
A world secure against German aggression

to the future well-being of Europe. German economic resources were mobilized by the Nazis as never before to make of Germany one mighty war machine. German heavy industries were expanded far beyond normal civilian needs and all sectors of the economy were geared into the war effort. It has, therefore, been a major objective of policy to reduce the expanded wartime industrial plant of Germany to peacetime proportions, to require reparation for war-wrought damage out of capital assets superfluous to an economy devoted to peaceful pursuits, and to demand restitution of looted goods and assurance against industrial rearmament.

The end of the war found the German economy prostrate, its industries disorganized and damaged by air and land bombardment. It was essential to inaugurate a carefully planned rehabilitation of economic life in the interests of an orderly occupation, the subsistence of the German people and their conversion to peaceful and democratic ways, and the health of the liberated areas of Europe.

The United States has, in consequence, adopted a policy toward Germany having these dual aspects: the one corrective, to insure that Germany can never again threaten the peace; the other constructive, to the end that the structure of peace in Europe may rest upon secure economic foundations.

1. Corrective Measures

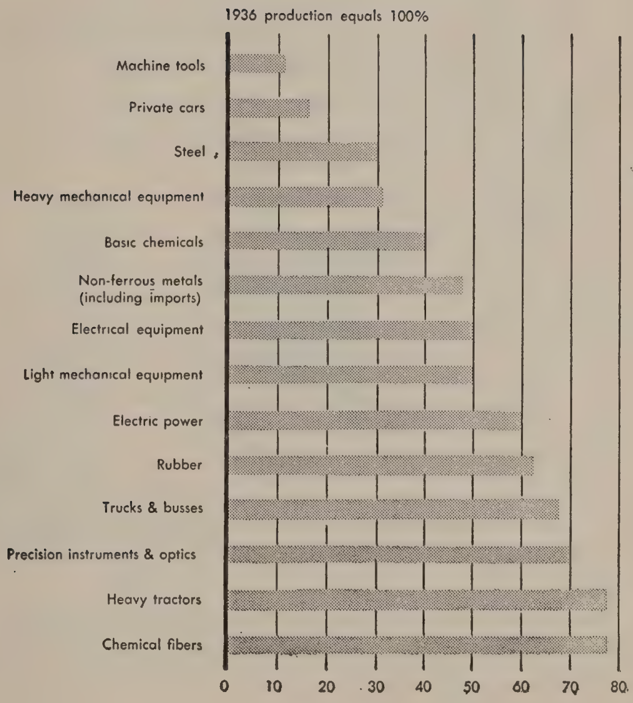
(*a*) *Economic Disarmament.* Almost to the day of surrender Germany continued to expand its industrial capacity. Surveys indicated that, despite bombing damage, the greater part of the enlarged industrial plant could be repaired and in a short time be again ready for full-scale war use. It was agreed at Potsdam that the industrial plants useful only for war should be destroyed or removed and that those useful also for peacetime purposes but essential for war should be reduced in number and their output controlled. It was also agreed that control of the German economy should be decentralized to eliminate excessive concentration of economic power in the hands of a small group of people who could use such power to wreck world security and strangle industry outside Germany.

Restrictions on the German productive capacity were set by the Control Council in the level-of-industry agreement of March 28, 1946. This agreement bans certain types of production entirely and limits others. It is designed primarily as a security measure but also to make available for reparation certain capital assets, representing a surplus over the needs of a peacetime economy. It is the view of the United States that this agreement is not intended to impose permanent proscriptions upon German industry primarily of peacetime importance.

Level-of-industry plan of March 1946

1949 production

Limited industries



Prohibited industries

Aircraft

Arms, ammunition & implements of war

Ball bearings

Certain machine tools

Radio transmitting equipment

Seagoing vessels

Synthetic ammonia

Synthetic gas & oil

Synthetic rubber

And others

When setting the levels of production in the restricted industries the Control Council used as a working base the domestic and export-import requirements of a population of 66.5 million living in a Germany that would be an economic unit where the free flow of goods and services would not be impeded by occupation barriers. It was assumed that Germany could find a market for the volume of exports needed to pay for its imports; otherwise, regardless of the levels set, Germany would not be able to support itself.

German external assets, greatly augmented by the flight of capital abroad on the eve of war and thereafter, have been impounded, and agreements with certain neutral countries have been reached governing the expropriation and vesting of German assets within their jurisdictions. These actions are designed to cut off an important avenue for the escape of German resources and their ultimate utilization for rearmament, as well as to obtain additional assets for reparation and restitution.

German patents and industrial secrets are being made available to all nations. Control Council Law No. 25 (see appendix C–8) prohibits theoretical and applied research in matters primarily related to military uses. Directives for the dissolution and prohibition of cartels and similar arrangements have been issued for the U.S. zone. Control Council Law No. 9 provides for the seizure of I. G. Farben properties and the termination of cartel relationships. Negotiations are under way for a uniform law for the disestablishment of combines of a monopoly character. The denazification program seeks to remove dangerous persons from key positions in the German economy. The intention is to weaken the control of strategic groups that have in the past been closely identified with the orientation of the German economy toward war.

Long-range proscriptions are as yet undetermined, but the United States, in its Draft Treaty for Disarmament and Demilitarization (see appendix C–11), has indicated its intent to impose such restrictions upon Germany over as long a period as circumstances and security require.

(*b*) *Reparation.*[18] The Yalta and Potsdam agreements asserted the principle that Germany should compensate to the greatest extent possible for damage caused to the Allied nations. In contrast with the reparation program following the war of 1914–18, the present plan is that reparation is to be made primarily from German capital assets, from within Germany and from without. The objectives of the plan are the avoidance of monetary transfers so large as to be impracticable and the rapid completion of large abnormal international transfers, which, if prolonged, would hinder world stabilization and reconstruction.

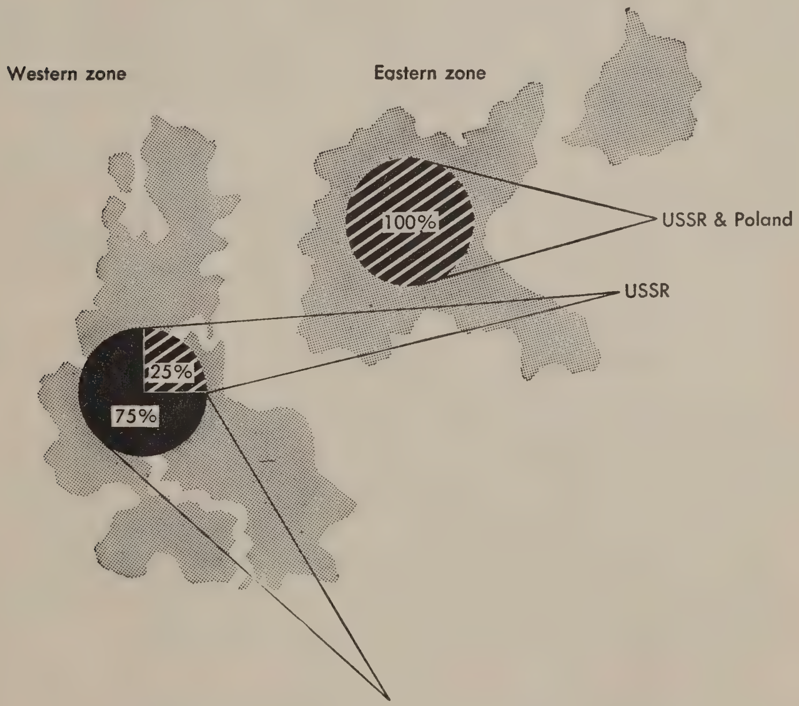
---

[18] See appendixes G–2, 3. For discussions on the Paris Agreement on Reparation and the Inter-Allied Reparation Agency, and for the text of the final act of the Paris Conference on Reparation see *The Distribution of Reparation from Germany* (Department of State publication 2584, European series 12).

The agreement was that the reparation claims of the Soviet Union and of Poland were to be met from capital industrial equipment from the Soviet zone of occupation and from German foreign assets in

Reparation

Capital equipment to be removed from Germany



Inter-Allied Reparation Agency

Albania
Australia
Belgium
Canada
Czechoslovakia
Denmark
Egypt
France
Greece
India
Luxembourg
Netherlands
New Zealand
Norway
Union of South Africa
United Kingdom
United States
Yugoslavia

eastern Austria and in the former satellite states. The U.S.S.R. was to receive 25 percent of the capital industrial equipment declared available in the three western zones (15 percent on an exchange basis). The remaining 75 percent and German foreign assets in the western countries were to be divided among 18 claimant Allied nations represented at the Paris Conference on Reparation, with the specific allocations to be made by the Inter-Allied Reparation Agency. The United States received an allocation of 11.8 percent of capital equipment and shipping, after voluntarily relinquishing 16.2 percent, and 28 percent of other reparation assets.

Although the Potsdam agreement provided that reparation removals should be completed within two years following the Control Council agreement on levels of German post-war industry, reached March 28, 1946,[19] removals from the western zones have proceeded slowly. By November 1946, 742 plants had been approved for removal from the western zones but only 145 plants had been definitely allocated, 26 to the U.S.S.R. and 119 to the Inter-Allied Reparation Agency for distribution. In May 1946 removals from the United States zone were temporarily halted because of failure to achieve an integrated economic treatment of Germany as stipulated in the Potsdam agreement. The United States is prepared to resume and carry out the program of reparation removals when agreement is reached upon economic unification of all zones of Germany.

(*c*) *Restitution.* Basic Allied policy on restitution of looted property was fixed by the Inter-Allied Declaration of January 5, 1943, which reserved the right to declare invalid all property transfers in enemy-controlled areas, even though apparently legal and voluntary. The restitution program is limited to identifiable goods looted by Germany from occupied countries and provides for restoration of the stolen goods or an equivalent. When lists of articles claimed are presented to the military government of the United States zone by the governments concerned, small missions are admitted to identify and receive the property. Restoration is made to governments rather than to individuals.

Looted gold is to be pooled and allocated among claimants in proportion to proved losses.

The problem of indemnifying persons in Germany who suffered property losses or personal injury through discriminatory action by the Nazi government presents many complex aspects and is under study with a view to the establishment of a definite policy. The denazification law for the U.S. zone provides resources in the form of confiscated properties of Nazi and other offenders for such indemnification.

---

[19] For full text of Control Council agreement see *United States Economic Policy Toward Germany* (Department of State publication 2630, European series 15), pp. 133–139.

In the interests of general economic recovery and justice to individual sufferers, the United States Government also favors restitution of looted property to ex-enemy or satellite countries. Agreement in this matter had not yet been reached at the Control Council level by the end of 1946.

2. Constructive Measures

The United States has of late placed increasing stress upon the necessity for rebuilding the German economy, in line with the Potsdam agreement, as the only secure foundation for a peaceful and democratic German state. It fully recognizes that such reconstruction must not recreate even a moderate German war potential and must permit maximum reparation payments. This policy in no sense seeks to build up Germany against any power but is based on the conviction that a sound German economy is indispensable to the stabilization of the European economy.

The Secretary of State on December 12, 1945, outlined three tentative stages in the recovery of Germany.[20] The first, 1945–46, saw some recovery but was primarily concerned with emergency reconstruction and corrective measures. The second stage, 1946–48, was to see the completion of plant distribution and removals and increased industrial activity. Germany, however, it was estimated, would still be dependent upon foreign assistance and subsidies until 1949. In the third stage, beginning in 1948, the Germans should gradually be able to assume responsibilities for their own subsistence, developing sufficient exports to sustain themselves without external aid, and to raise their standard of living to the European average.

(*a*) *Provision for Basic Needs.* With Germany in a state of material and spiritual chaos, economic policies and action during the first year and a half of the occupation were largely and inescapably concerned with meeting the primary needs—food, transport, fuel, and shelter.

Food. For several decades Germany has not been wholly self-sufficient in foodstuffs. In the interest of the large landowners it subsidized the growing of cheap breadstuffs and relied heavily on imports for the more expensive. In 1933, under the war program, a drive began for increased agricultural production, but only within the limits that could be attained with heavy use of fertilizer and more machinery, since every available man was wanted for the factories and the army. In spite of the return of the Saar, 3.2 million acres less land was in agricultural use in Germany in 1939 than in 1933. Most of the land withdrawn from farm use had previously been plowed. A considerable part of the former farm land was used for fortifications, barracks, airports, and other military purposes, while the rest remained idle. One of the first tasks facing the military government was to get at least part of the former plow land back into agricultural use by the time of the 1945 fall planting. In spite of the fertilizer shortage the fertility of the soil had been maintained until 1944 through the addition of large numbers of livestock taken from occupied regions. But the supply of fertilizer other than potash became a serious problem late in 1945. While a majority of the Germans were well supplied with stocks of foodstuffs at the time of surrender, many people in the bombed-out areas and some in the larger cities, including people who had fled or been expelled from other sections of Europe and from Germany east of the Oder-Neisse, were largely dependent on the efforts of the military government for the maintenance of life.

---

[20] See appendix G–3.

The United States representatives did their best to round up all warehouse and surplus farm stocks of foodstuffs and to get them distributed. They immediately began imports of food estimated as necessary to meet the minimum needs until the following harvest. They were heavily handicapped in their efforts to spread whatever was available in Germany evenly throughout the country, not only by the zonal barriers but also by black marketing and poor collections from the German farmers. Import efforts were impeded by the heavy demands for foodstuffs from many other parts of Europe and from other continents. The last crop year before the surrender had seen heavy fighting in normally surplus-food areas of Europe and some heavily populated agricultural regions had been blighted by drought.

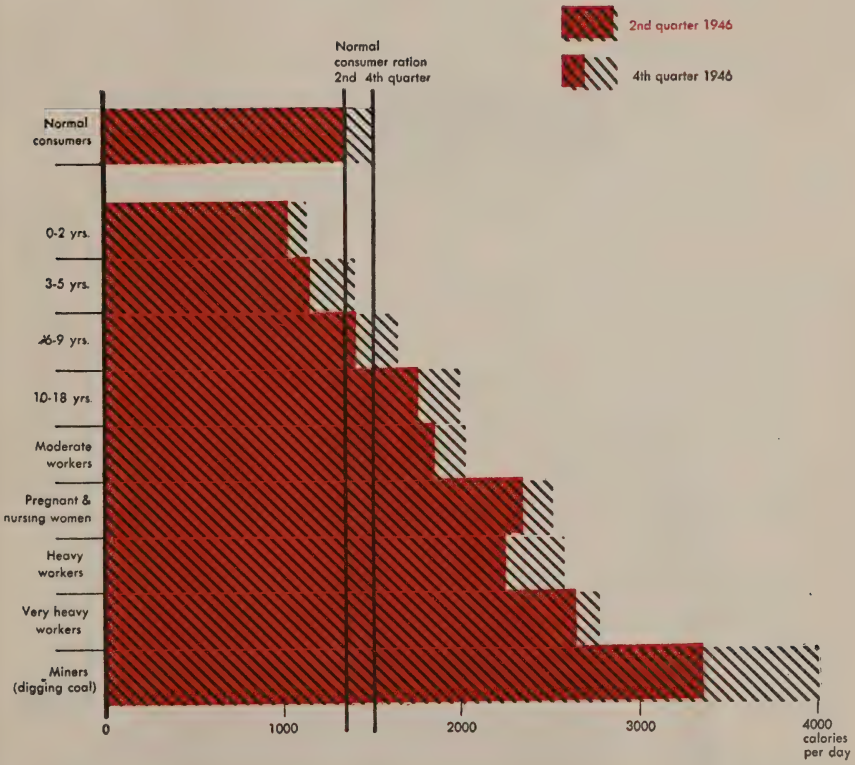
The goal of the military government—to insure for the normal consumer a supply of foodstuffs that had a value of 1550 calories a day—was not always reached.[21] For a time in the summer of 1946 the ration value dropped as low as 1180 calories a day. The former ration level was restored in the fall with the aid of foods imported from America, even though collections from the new crop were unsatisfactory. While the food level of many people in the non-agricultural sector of the population was well below that considered necessary for good health, to the end of 1946 mass malnutrition and a heavy increase

---

[21] The normal consumer ration is merely a basic for adults. Persons in various categories receive supplementary rations according to their health condition and job demands.

Per capita distribution of rationed food

U. S. zone

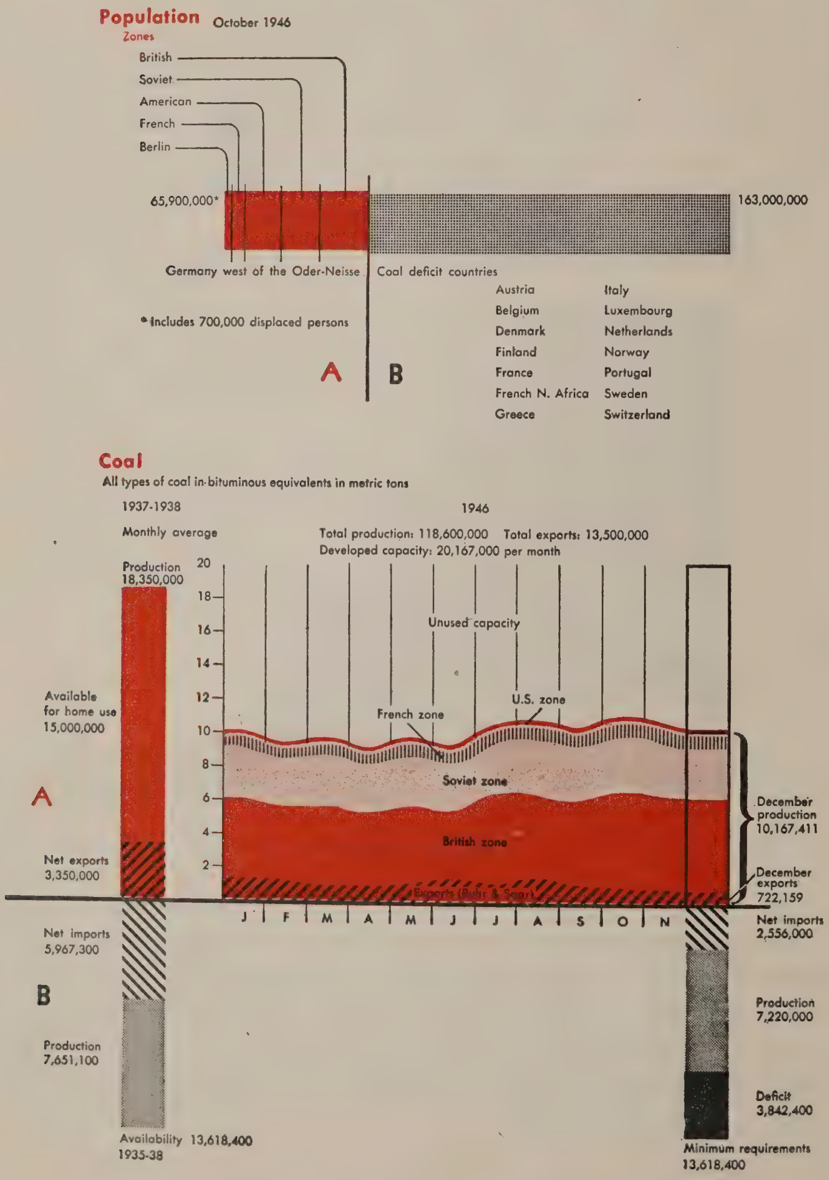


in diseases resulting from food deficiency had in general been avoided.

The military government has facilitated the importation of foodstuffs in addition to those under the occupation budget by its arrangements with the Council of Relief Agencies Licenced for Operation in Germany (CRALOG) and with the Cooperative for American Remittances to Europe (CARE), whose packages are now being received in most parts of Germany.

Transport. Before food could be moved and industrial operations resumed, large-scale repair of bridges and other essentials of the transport system was necessary. Army engineers, using the techniques learned in facilitating military operations, assisted the Germans in making emergency repairs to railroads and in clearing blocked

Germany and the European coal deficit



canals and rivers. By the spring of 1946 the condition of transportation was no longer a serious handicap to economic recovery and it was even possible to accept transit shipments. As in other European countries, the facilities are well below the pre-war standard and return to that standard will be slow. With increased industrial activity, transport may again become a problem.

Coal. German coal is vital to the maintenance of life, as well as to industrial activity, not only in Germany but also in a large part of Europe. Before the war Germany met about half of the large over-all European coal deficit outside its borders, sharing the market chiefly with the United Kingdom, which is no longer an exporter, and with Poland. If the large output of lignite is converted to its bituminous energy value equivalent (BCE), it may be estimated that Germany produced 220 million tons of coal west of the Oder-Neisse Rivers during the 1937–38 coal year.[22] During the war the increased lignite output was equal to another 20 million tons of bituminous coal.

Under the level-of-industry agreement it was estimated that Germany would require an output of 168,000,000 (BCE) tons of coal a year to meet its domestic needs, to operate its mines, and to have 45,000,000 tons for export.

In 1946 Germany west of the Oder-Neisse Rivers reported production of only 118,429,000 (BCE) tons of coal. In December the Ruhr was producing at only 45 percent of the 1938 rate. Exports totaled 13,385,000 tons. With reduction in the weight of exports for the lower energy value of shipments of brown coal briquettes, this left some 106,000,000 (BCE) tons in the country. At the reported rate of coal production in 1946, domestic requirements with full industrial operation under the level-of-industry agreement would have been 120,000,000

---

[22] German production in the coal year ending in March 1938 was distributed as follows:

	Metric tons
East of the Oder-Neisse line	
Bituminous coal (from Silesia)	30, 854, 000
Lignite (near the Oder-Neisse)	1, 800, 000
West of the Oder-Neisse line	
Bituminous coal	
Ruhr-Aachen district	137, 766, 000
Saar	13, 733, 000
Scattered fields	5, 714, 000
Brown coal	
Central Germany, east and west of Elbe River	129, 548, 000
Western Germany (chiefly in Rhineland near Cologne)	56, 322, 000
Pitch coal (Bavaria)	1, 504, 000

The peak wartime production of lignite west of the Oder-Neisse was 248,000,000 tons.

tons (BCE). The proportionate deficit was lower in Germany than in the surrounding areas, but poor distribution and other factors prevented efficient use of what was available. The causes of the low production were numerous. One of the most serious was the unwillingness of Germans to enter the mines, where they were needed to replace the prisoners of war and slave laborers who had maintained high production during the war. Other factors included lack of repairs to miner housing and shortage of mining supplies as well as clothing and other essential goods for miners. While for a time the food shortage played a part in reducing production, by fall the underground miner's ration was up to 4,000 calories a day.

Shelter. Bombing and other military action during the war caused large-scale destruction of housing in many urban centers in Germany. The housing problem was accentuated by the arrival of Germans from the east and other parts of Europe. As in most other parts of the world, at the end of 1946 housing conditions were still well below the pre-war standard. Energetic measures were necessary to alleviate the worst of the housing conditions before the second winter of the occupation began. The extensive building program begun in 1946 is being accelerated in 1947.

(*b*) *Revival of Trade and Industry.* Within the limits fixed by the level-of-industry agreement, the United States is endeavoring to promote a rapid revival of German production and both internal and foreign trade. It has arranged for imports of cotton and other industrial raw materials. It has labored to break down the barriers to interzonal exchange. It is anxious to promote the recovery of German foreign trade to the point where exports will pay for imports. The deficit of the United States Government for imports into its zone totaled about $290,000,000 up to December 31, 1946. The United States has also worked for agreement on a common export-import plan for Germany and has presented for Control Council consideration a detailed plan for financial stabilization and prevention of a ruinous inflation.

By October 1946 industrial production in the U.S. zone had risen to 44 percent of the 1936 rate, even with a deduction for output of a military character in the earlier period. In the last quarter of 1936 industrial production in the whole of Germany had been at more than 110 percent of the rate in the boom year of 1928, and 182 percent of what it had been in 1932. In September 1946 only 479,000 employable persons were seeking work in the American zone.[23] Production in December declined to 39 percent of the 1936 annual rate because of the holidays and the exhaustion of coal stocks.

---

[23] Total unemployment of the able-bodied in Germany in September 1946, as shown by the reports of the four military governments, was 1,193,000. The employed included some displaced persons and considerable numbers of persons

The levels of production reached in all Germany are still far short of those fixed by the level-of-industry agreement. The low level of achievement may be attributed in part to war damage to German industrial plants and to dislocations resulting from the German defeat and the application of occupation controls, but it is due in large measure to shortages of coal and other raw materials and to the adjustments required in all post-war reconversion. Even more, today, it is due to the failure to achieve the economic unity of Germany as predicated in the Potsdam agreement.

(*c*) *Economic Unity of Germany.* The United States has sought, consistently, to implement that provision of the Potsdam agreement (article III, paragraph 14) which states that Germany shall be treated during the occupation as a single economic unit and that central German administrative agencies shall be created in the fields of finance, transport, communications, foreign trade, and industry.

To the end of 1946 there was still no Four Power agreement on central agencies and the German economy had been operated mainly on a zonal basis, with interzonal trade being carried on as between four independent countries.

Reasons for the failure varied. Each military occupant had a different plan for administration of the area he occupied and had difficulty in adjusting to the ideas of the others. There were also basic differences of opinion among the occupants on economic, social, and political theory. Among the important obstacles to agreement was the deep-rooted French fear that an economically unified Germany would rapidly again become a militant Germany based on the Ruhr. On July 29, 1946, after all efforts for four-zone union had failed, the United States offered to join its zone economically with that of any other occupying power and stated that this would be merely a provisional arrangement pending quadripartite agreement on all of Germany. The aim was not to divide Germany but to promote a balanced economy and expedite stabilization. Again, in his Stuttgart address of September 6, Secretary Byrnes emphasized this Government's readiness to join with any other of the occupying powers in arrangements that would promote partial or complete economic unity.

To date only the British authorities have accepted the offer. In December 1946 an Anglo-American accord was entered into for eco-

---

who had arrived from other countries and from lands east of the Oder-Neisse. At the time of the census in June 1933, when the total population was 66,029,000, 5,899,258 persons were unemployed; of these 4,232,878 were in industry, including handcraft workers. Since in all zones many categories of workers draw extra rations the relatively small number of persons seeking employment is significant.

nomic unification of the U.S. and British zones.[24] Joint German agencies have been set up to deal with food and agriculture, industry, trade, finance, transportation, and communications. There was to be no zonal capital. Headquarters of the various agencies are scattered throughout the two zones. So far as security permits, free circulation of persons and commodities within the two zones has been authorized. The agreement provides for a pooling of all resources, for financial reforms and stabilization of the currency, for establishment of a common standard of living, and for the building up of export industries to pay for needed food and raw materials.

It was estimated that if quadripartite unity were not achieved the two zones would require a subsidy of one billion dollars spread over a period of three years before they could be self-supporting.

(*d*) *Long-Range Policy.* The long-range policy of the United States contemplates a future German economy in which there will be less emphasis on heavy industry and the war-type chemical industries and more on light industry and an efficient agricultural economy. When the world food situation is less critical, Germany will be encouraged to use its land to better advantage. No limits have been placed, or are contemplated, on any of the industries whose products are primarily of value to a peacetime economy. Restrictions have been agreed to only in connection with industries indispensable to war-making. The United States opposes any renewed tendency toward German autarchy, while favoring an ultimately self-sustaining German economy closely affiliated by natural economic ties with neighboring states.

Germany should never again be permitted to aggrandize herself at the expense of her neighbors; on the other hand, no power should be enabled to exploit German raw materials or productive powers in its exclusive interest. It is not intended that Germany's standard of living should be permanently restricted by the Potsdam or level-of-industry agreements, but rather that it should be limited only by the productivity and resourcefulness of the German people. Questions of basic internal economic and social reform, it is believed, should be left for decision to German governments of democratic character. The United States Government is sympathetic, however, with reform proposals of a democratic character, and has approved a moderate land-reform measure for the U.S. zone. It has also indicated a willingness to permit democratic socialization programs, providing foreign property owners are duly compensated.

At some future stage it is possible that Germany may be brought into the various specialized economic organizations now operating in

---

[24] See appendix G–5.

Europe to allocate materials, coordinate national policies on common services, and advise governments on broad economic policy. Germany may ultimately hope to participate in the international economic organizations set up under the supervision of the Economic and Social Council of the United Nations and designed to foster world trade under conditions of equal treatment for all nations.

H. POLITICAL STRUCTURE, LAW, AND ADMINISTRATION

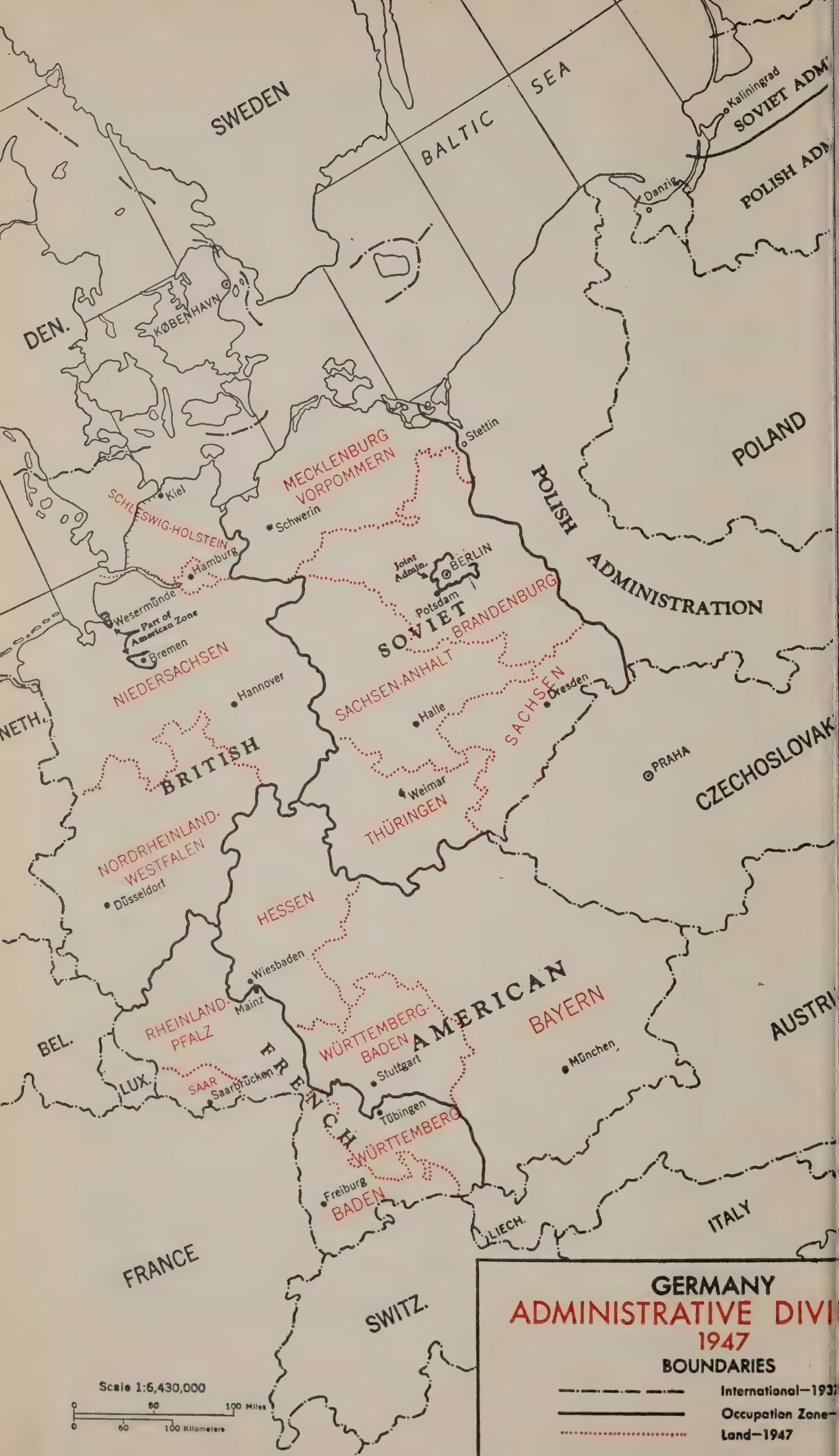
The Allied powers, having completely destroyed the Nazi state and assumed for the time sovereign authority in Germany, have been confronted with the necessity of formulating policies for the rebuilding of the entire German state structure. These policies have, to date, been largely concerned with the reactivation of German administrative organs on a local, regional, and zonal basis. More recently attention has been focused on the emergence of state units (*Länder*) and the problem of a national political structure. The ultimate form of the new German state is as yet undetermined but is the subject of extensive debate and negotiation.

The Potsdam agreement enunciates tripartite policy.[25] It specifies that the "administration of affairs in Germany should be directed towards the decentralization of the political structure and the development of local responsibility." To this end local self-government based upon democratic principles and elective procedures is to be restored as speedily as possible, and representative and elective principles are to be extended later to regional and state administration. The Potsdam agreement did not contemplate a central German government in the immediate future but provided that central German administrative departments be set up to deal with finance, transportation, communications, foreign trade, and industry. (To the end of 1946 these had not been established because of failure of the four powers to reach agreement in the matter.) A year after Potsdam (September 6, 1946) Secretary Byrnes advocated "the early establishment of a provisional German government for Germany". By late in 1946 the three Potsdam powers were beginning to concern themselves seriously with the problem of a united Germany. Although France still opposed any substantial move toward German unification, it was anticipated that 1947 would bring action looking to the establishment of a central, but not dangerously centralized, regime.

The judicial system of Germany has been substantially reorganized. Structurally it resembles the pre-Nazi organization of both ordinary

---

[25] See appendix H–1. France, not having been represented at Potsdam, has held that her Government is not bound by the agreement and has consistently opposed all measures looking to the reestablishment of central German administration in any form.


SWEDEN
BALTIC SEA
Kaliningrad
SOVIET ADM
POLISH ADM
Danzig
DEN.
KØBENHAVN
POLAND
Stettin
MECKLENBURG VORPOMMERN
Schwerin
SCHLESWIG-HOLSTEIN
Kiel
Hamburg
POLISH ADMINISTRATION
Joint Admin.
BERLIN
Potsdam
BRANDENBURG
SOVIET
Wesermünde
Part of American Zone
Bremen
NIEDERSACHSEN
Hannover
SACHSEN-ANHALT
Halle
SACHSEN
Dresden
NETH.
BRITISH
PRAHA
CZECHOSLOVAK
Weimar
THÜRINGEN
NORDRHEINLAND-WESTFALEN
Düsseldorf
HESSEN
Wiesbaden
Mainz
RHEINLAND-PFALZ
AMERICAN
BAYERN
München
AUSTRI
BEL.
LUX.
SAAR
Saarbrücken
FRENCH
WÜRTTEMBERG-BADEN
Stuttgart
Tübingen
WÜRTTEMBERG
Freiburg
BADEN
LIECH.
ITALY
FRANCE
SWITZ.
Scale 1:6,430,000
0
50
100 Miles
0
50
100 Kilometers
GERMANY
ADMINISTRATIVE DIVI
1947
BOUNDARIES
International—193
Occupation Zone—
Land—1947

and administrative courts, except that no central court of appeal exists. The courts have been reestablished "in accordance with the principles of democracy, of justice under law, and of equal rights for all citizens . . . ."

1. The Reactivation of Administration

Since Potsdam there has been little agreement among the four powers as to specific ways and means of reviving German administration and this function has been left almost entirely to the respective zonal authorities. Developments have inevitably reflected the divergent interests and ideologies of the occupying powers, and in consequence each zone has evolved a distinctive political pattern.

(*a*) *The United States Zone.* The United States has consistently stressed the principle that administrative functions should be delegated as rapidly as feasible to Germans of approved character and political reliability. This was done early in the occupation for local governmental units (*Gemeinde*, *Kreis*). By October 1945, three state administrations had been set up in the zone—Bavaria, North Württemberg-Baden, and Greater Hesse—in addition to the separate administration for the Bremen enclave.[26] In each *Land*, or state, appointed officials headed by a Minister-President were assigned full responsibility for internal affairs not involving security considerations. All aspects of German administration were carefully scrutinized and supervised by military government, which, by January 1946, was separately constituted as the Office of Military Government (OMGUS). During 1946 additional administrative functions were progressively transferred from military government to German officials and agencies at all administrative levels. As noted earlier even such vital tasks as denazification are now undertaken by Germans. Appointive provisional parliaments, advisory in character, were set up in each *Land.* American policy is insistent that democratization can be achieved only through practical experience and the assumption by the Germans of direct responsibility for governmental actions.

In November 1945 there was set up in Stuttgart as a coordinating agency for the three states a Council of Ministers-President (*Länderrat*). This now operates under the revised statute as approved June 4, 1946.[27] At first advisory, this agency has now been assigned substantial executive functions. It is the prime agency for the implementation of OMGUS policies within the zone. It meets monthly; its decisions must be unanimous. It is assisted by a secretariat, standing and special committees, and a directorate, empowered to make decisions by majority vote on matters not of major importance. The *Länderrat* has been of great importance in lightening the burdens of the occupation authorities, in coordinating zonal policy, particularly in economic matters, and in effecting the transfer of administrative functions to German officials. Its U.S. counterpart is the Coordinating Office which cooperates closely with the autonomous German administrations. Zonal authorities have been created with executive power in the fields of food, price control, and transportation. During 1946 the *Länderrat* collaborated at times with German officials of the British zone in treating interzonal matters. The *Länderrat* has achieved a high degree of coordination of policy throughout the United States zone and as yet has no counterpart in any other zone.

---

[26] Bremen now has the status of a *Land.*

[27] See appendix H–4.

The British-American bizonal merger now being effected along economic lines does not involve a political fusion, but it carries political implications. The treatment of the two zones as an economic unit and the creation of bizonal economic agencies will necessarily influence future political developments. The two zones will be drawn closer together and, in effect, some degree of joint administration for an area embracing most of western and southern Germany will be achieved.

New civil service codes, worked out under military government auspices, have been enacted in the three *Länder*.[28] They are designed to democratize the administrative services, enact the merit principle, and abolish the caste system which has traditionally characterized the German civil service. They will govern fully 90 percent of all public employees as compared with only 30 percent under previous codes.

The regular courts have been reorganized in accordance with the principles of Control Council Proclamation No. 3 and Law No. 4.[29] The courts are now operative and function from the level of the *Amtsgerichte* (first instance) to the *Landgerichte* (first instance and appellate) and the *Oberlandesgerichte* (appellate). Nazi legal principles are excluded from the procedure of the courts, and the independence of the judges, the supremacy of law, and the equality of all persons before the law are maintained. There is a serious shortage of technically qualified and politically reliable judicial personnel, made all the more acute by the additional demands of the new denazification tribunals (*Spruchkammern*). Control Council Law No. 36 (October 10, 1946) provided for the reestablishment of the system of administrative courts throughout Germany.

---

[28] See appendix H–5.

[29] See appendixes H–2, 3.

(*b*) *Other Zones.*[30] British policy has emphasized continuity and efficiency of administration as initially more important than the revival of political activity. German administrators appointed by military government are essentially non-political technicians, not political leaders. With military government holding the reins of government firmly, administration is semi-colonial. From the former territory of Prussia lying within the British zone there have been marked out three areas with the status of *Länder*—North Rhineland-Westphalia, Lower Saxony, and Schleswig-Holstein—while Hamburg is given a separate organization. *Länder* governments have been set up, though with less authority than those of the U.S. zone. A zonal advisory council, composed chiefly of professional civil servants, meets at Hamburg. British authorities are contemplating the creation of a zonal council comparable to the *Länderrat* of the U.S. zone. The goal of British zonal policy is primarily economic revival within a framework of orderly administration. To facilitate economic revival and control, a considerable number of zone-wide economic associations, organized with German personnel, have been created. Upon this structure is superimposed a German Advisory Board for the entire zone, meeting regularly at Minden since March 7, 1946. The British authorities have taken steps looking toward the eventual nationalization of a number of basic industries, including coal and steel.

French interests dictate the encouragement of particularist forces in the French zone. France, as previously noted, fears the reintegration of a strong and unified Reich and administers her zone as an area virtually independent of the rest of Germany. The Saar district, now somewhat enlarged by French decree, is amalgamated economically with France. On August 30, 1946, a new *Land* was created known as Rhineland-Palatinate (including Rhenish Hesse), with its capital at Mainz. South Württemberg and Baden did not in 1946 have the status of *Länder*. No apparatus for intrazonal cooperation exists. Although strongly interested in reparations, France has nevertheless sought assiduously to cultivate German good-will and presents herself as the upholder of Rhenish cultural tradition as opposed to Prussia and the Reich.

Soviet administration leans heavily upon German personnel of approved political reliability. Five administrative units have been set up—Land Saxony, Province Saxony (inclusive of Anhalt and other enclaves), Thuringia, Brandenburg, and Mecklenburg-Pomerania. Central administrative agencies governing economic affairs for the entire zone have been created. A drastic reparation policy, involving extensive removals both of capital goods and current output, is in effect. Recent Soviet policy has aimed at maximum revival of consumer-goods industries. Expropriation of the properties of Nazis and militarists has been enacted by the various provincial governments and such properties have, in part, been nationalized. Sweeping land-reform measures have been effected throughout the zone. Thus the Potsdam mandate has been interpreted in such a manner as to impose fundamental changes in the pattern of industrial ownership and land tenure. Administration and reform have been effected largely through the leadership of the Soviet-sponsored Communist Party (KPD), later merged with the Social Democrats to form the Socialist Unity Party (SED). To a greater degree than in the other zones, eastern Germany has been given a definite and novel socio-economic mold which may tend to revolutionize its ultimate political structure and its relation to the remainder of Germany.

---

[30] For British, French, and Soviet statements of policy toward Germany see appendixes K-1, 2, 3.

2. The Future Character of the German State

The problem of the future structure of the German state is now engaging the close attention of the occupying powers. It is generally assumed that Germany, however reduced in area, will not be partitioned and will ultimately be constituted as a unified nation. This position was definitely taken by Soviet Foreign Minister Molotov on July 10, 1946, and by Secretary Byrnes in his Stuttgart address of September 6.[31] British spokesmen have repeatedly urged a united Germany. The French Government is strongly opposed to a strong centralized regime with authority over the Ruhr and the Rhineland. It is not opposed, however, to a central German government representing autonomous states with adequate safeguards against utilization by the central government of the resources of the western areas for war purposes.

The emergent issue today is: Shall the future German state be federal or unitary? The dangers of overcentralization of power have been dramatically demonstrated by the Nazi state. Yet no lasting reconstruction of Germany along democratic lines can be conceived without a central government with adequate powers to deal with economic and other matters of national import and to satisfy the legitimate national aspirations of the German people. There is no evidence that particularist or separatist forces are strong enough, even where they are most evident as in Bavaria and the Rhineland, to win wide popular support for the disintegration of Germany into its component states or provinces.

---

[31] See appendix H–6.

The United States favors a united Germany with a federal structure. It does not oppose a central government for Germany but does oppose a "strong central government dominating the German people instead of being responsible to their democratic will".[32] It would postpone the creation of a central government "until some sort of democracy was rooted in the soul of Germany and some sense of local responsibility developed". It would prefer an ultimate central regime of federal character, that is, of defined and limited powers, with residual powers reserved for the *Länder* governments. It would approve such degree of federalistic autonomy as may be the outgrowth of indigenous German sentiment.

The federal concept has been opposed by Soviet leaders because it would, in their opinion, lend itself to the perpetuation of reactionary social groups. Soviet and American views are not, however, diametrically opposed and might be reconciled in a Germany functionally unified but federal in structure, as are both the United States and the U.S.S.R.

The basis for a federal Germany is gradually being laid in the creation of provisional German states or *Länder* in the various zones. The major units now number twelve. The former predominant state of Prussia has been virtually dissolved in all zones, although a Control Council proposal to abolish it *de jure* has been opposed by the Soviet representative as being a matter for intergovernmental decision. The formal disposition of Prussia was to be considered by the Council of Foreign Ministers in their meeting commencing on March 10, 1947. The new Germany seems unlikely to include any state approaching the former Prussian state in power over the whole.

At present the United States is concerned with effecting a greater degree of unity among the zones for purposes of administration. Although designed primarily for economic ends, the bizonal plan now in effect in the British and American zones is necessarily a move toward ultimate political union as well. Secretary Byrnes, on September 6, proposed the early establishment of a provisional German national government, to consist of a national council "composed of the democratically responsible minister presidents or other chief officials of the several states or provinces which have been established in each of the four zones." Such a government, subject to the Control Council, would be responsible for the operation of central administrative agencies as contemplated in the Potsdam agreement. The German National Council would undertake the preparation of a provisional constitution for Germany to be submitted to an elected convention for final drafting and to the German people for ratification.

---

[32] Secretary Byrnes at Stuttgart.

The United States does not propose to dictate the forms of German constitutional life nor to intervene in the process of creating a new German state beyond the imposition of certain minimum requirements in the interest of the general security. It holds that the ultimate German government must be democratic in character, federal in structure, and grounded on a firm guarantee of civil rights and liberties. There is no intent to prescribe the economic system or social structure other than to insure that Nazi or militarist forces shall find no future vantage point in German society. Of necessity the new German government will be required to adhere, as a condition of its recognition, to whatever conditions the Allied powers agree to attach to German sovereignty for a specified or indeterminate period. The proposed Draft Treaty on Disarmament and Demilitarization (see appendix C–11) represents this Government's views as to the nature of such restraints. Except for these limitations, Germany would be accorded full independence and become eligible, ultimately, for admission to the United Nations.

I. THE REVIVAL OF POLITICAL LIFE

1. Basic Political Objectives

Closely related to the problem of reconstituting German administration and building the structure of a new state is the necessity of reviving German political life along democratic lines.

This poses the crucial task of the occupying powers in Germany. German historic development has not been of a character to foster democratic habits and ideals. The early German principalities crystallized from a warring, feudalistic society and, except for the free cities and ecclesiastical states, were established on a dynastic basis. Owing to their involvement in European internecine strife the "Germanies" of the sixteenth to the nineteenth century remained divided, politically backward, and relatively untouched by the renovating liberal movements which so strongly influenced western Europe. Prussia became a European power by sheer military effort. The central and exposed position of Germany in Europe accentuated the disposition to seek salvation in strong government and military power, notably in the case of Prussia. Supporting the hierarchic and dynastic regime of Prussia was a powerful military caste closely affiliated with the economically dominant Junker group of landed proprietors.

Modern Germany was born of the strong nationalistic movement concurrent with the Napoleonic wars and the generation thereafter, the industrial revolution which German material resources and scientific talents combined to make a potent factor in the new Reich, and the political astuteness of Bismarck, who welded the lesser German states with Prussia to create the predominant power of the continent. German liberal and democratic aspirations, vocal in the revolutions of 1848, were thwarted and suppressed under the autocratic constitution of the empire (1871–1918). Germany's military victories in the wars for unification and the unparalleled industrial expansion in the following decades greatly strengthened the grip of the ruling classes—the nobility, the military, the bureaucracy (thoroughly antidemocratic in outlook), the conservative industrial and financial magnates who wielded enormous power over Germany's highly integrated economy, and an influential group of intensely nationalistic intellectuals.

After 1914 neither war nor revolution was able seriously to weaken the governing structure of German society—the theoretical democracy of the Weimar republic never struck deep roots in German soil. The Nazi movement, capitalizing on the general post-war unrest, allied itself with entrenched forces of reaction to recreate a state power more authoritarian and militaristic than any of its predecessors. The weak and divided democratic forces of the republic were liquidated and the regime was established on the sole basis of power irresponsibly exercised.

The experience of the last century has demonstrated that democracy, although rooted in certain German traditions, has not been able to develop strength sufficient to combat the authoritarian forces entrenched in German society. The democratic movements of 1848, of the years prior to 1914, and of the decade following the first World War failed equally to effect basic changes in German political life.

The United States and its associates have clearly recognized the necessity not only of destroying German militarism and the authoritarian power state with which it is inseparably linked, but of strengthening democratic forces in Germany. It is clearly perceived that there can be no long-range insurance against German military revival without the establishment of democratic political institutions. It is agreed that democracy cannot be imposed by alien powers but must be an indigenous growth. Despite the unpromising character of Germany's political past it is considered essential to delegate the task of building German democracy to the German people themselves. Hence it is the intent of the Allies, in the words of the Potsdam declaration, "that the German people be given the opportunity to prepare for the eventual reconstruction of their life on a democratic and peaceful basis."

It is recognized that in spite of long suppression there exists the potentiality of a democratic life in Germany. In the ranks of labor, of churchmen, of the former democratic parties, and of youth, are not a few who resisted the Nazi dictatorship and who are ready to assist in creating a new German state on democratic foundations. To encourage these elements it was agreed at Potsdam that local self-government on democratic principles should be restored throughout Germany, that elective councils be authorized, that democratic political parties with rights of assembly and public discussion be encouraged, and that representative and elective principles be eventually introduced into regional and state administration. Freedom is likewise to be accorded to religious, economic, and other associations to engage in activities consonant with democratic principles.

2. The United States Zone

United States policy has recognized the fact that political reconstruction cannot consist in the reestablishment of preexisting institutions or forms. The dissolution of the Nazi regime has left a political void and even yet few constructive political ideas have emerged from the general chaos. In as much as Germans lack experience in self-government, particularly at levels higher than the local community, a "grass roots" approach has been formulated, designed first to acquaint sound elements among the German population with the conduct of local affairs—local administration, trade unions, cooperatives, church organizations, schools, the press, cultural activities—and then to build upon the experience thus gained by according responsibility to Germans at higher governmental levels. It is hoped in this way to combat the traditional acceptance by Germans of authority imposed from above by the official hierarchy and to inculcate a sense of personal responsibility for all public acts.

In the U.S. zone the cultivation of democratic processes has, to date, consisted mainly in the authorization of political parties and legitimate party activities, the holding of popular elections, both local and *Land*, and the drafting of *Land* constitutions in accordance with democratic procedures.

(*a*) *Political Parties.* Early military directives, for security reasons, discouraged the formation of political parties in occupied areas. But the Potsdam agreement contained the declaration, "All democratic political parties with rights of assembly and of public discussion shall be allowed and encouraged throughout Germany". Pursuant to this decision, persons and groups, carefully screened to eliminate anti-democratic elements, have been authorized to organize parties based on democratic principles. Party organizations were at first limited to the county (*Kreis*) level, but later authorized at the state or *Land* level (November 30, 1945). On March 1, 1946, zonal party organizations were authorized. All party programs must be approved by military government. This Government has scrupulously avoided preferential treatment of authorized parties and has interfered (as in the suppression of the Bavarian Party for King and Country, May 1946)[33] only when democratic principles were at stake. Members of all important party groups have been admitted to governmental office, including membership in the *Land* cabinets.

To the present time four parties have gained a significant hold in the U.S. zone, although a number of minor groups have also been licensed. The major parties are:

The Liberal Democratic Party (Free Democrats in Bavaria and Democratic People's Party in Württemberg-Baden);
The Christian Democratic Union (Christian Social Union in Bavaria);
The Social Democratic Party; and
The Communist Party.

These same parties or their equivalents, with certain variations, have appeared also in the other three zones, so that a description of their character and policies is indicative of a three- or four-party pattern that has now emerged throughout Germany.

The Liberal Democratic Party (LDP). This party represents the right-wing middle-class elements which before 1933 were mainly associated with the German Democratic and the German People's Parties. In most areas it is the weakest numerically of the four main groups but has the advantage of being remarkably homogeneous in membership and clear in purpose. Its members are recruited chiefly from business, the intelligentsia, and the civil service. It champions a type of democracy which stresses the autonomy of the individual and is especially concerned to maintain maximum freedom of business enterprise and the rights of property in the face of the socialistic demands of the Left. It favors a united Reich governed by a strong central authority and a nonpartisan professional bureaucracy, and its program has definite nationalistic overtones. It is strictly secular, avoiding the church affiliations which characterize the Christian parties. The party is weak in the U.S. zone, but stronger in the more industrialized areas controlled by the British. In the September 1946 elections in the Soviet zone it demonstrated unexpected strength, running second to the dominant SED (combined Socialists and Communists) in Land Saxony, Province Saxony, and Thuringia.

---

[33] This party favored the restoration of the monarchy in Bavaria and, in the view of military government, was antidemocratic in character.

The Christian Democratic (or Christian Social) Union (CDU or CSU). This is likewise essentially a middle-class party, embracing much of the following of the former Center and Bavarian People's Parties. Although the strongest of the middle-class groups, it is heterogeneous in its membership, which is drawn from business, clerical, peasant, and moderate labor groups. It disclaims a sectarian basis but in fact is closely associated with the Catholic Church, especially in Bavaria. It pursues a middle-of-the-road policy which is often a matter of contention between its conservative and progressive elements. Its program stresses German revival on the basis of Christian morality and western traditions of individual liberty. It would accept a moderate plan of socialization for those sectors of economic life which are clearly of major public concern, but it is deeply concerned with the preservation of the present social order, tempered somewhat by liberal reform. The party adapts itself regionally to the respective strength of its right- and left-wing elements. It stands for a federal solution of the problem of German unity, based on a "purposeful synthesis" of state rights and national authority.

The Social Democratic Party (SPD). This party has revived its pre-Hitler philosophy of a gradual approach to socialism through political action. In the western zones it seems to represent the bulk of labor; its leadership is composed largely of veteran party and trade-union officials. It is the moderate party of the Left and seeks to broaden its base to that of a national people's and workers' party by appealing both to progressive middle-class elements (particularly in the western zones) and to the more radical Communist group. In the Soviet zone the two parties have effected a merger in the Socialist Unity Party (SED). The party is essentially an antirevolutionary reform group, working toward the goal of a socialist state to be achieved through land reform, nationalization of key industries, cooperatives, legislative curbs upon the abuses of capitalistic enterprise, and general improvement of the status of the workers. More emphatically than the middle-class parties it stands for adequate denazification of public and economic life. The party favors a united Germany with a central authority adequate to the effectuation of economic and social reforms of national scope. There is a strong sentiment in favor of a united workers' party for Germany, tempered in the west by a determination that such a party should never be dominated by Communist leadership nor renounce democratic procedures.

The Communist Party (KPD). This party, traditionally revolutionary in aim, has adapted its methods to the necessities imposed by military occupation. It seeks to promote a radical reform program which would entail a fundamental change in the social structure of Germany.

It would involve the complete eradication of the old Junker-militarist ruling class, sweeping land reforms, and socialization of wide sectors of the economy. It has gained little headway in the west but expects far-reaching influence in eastern Germany because of the Socialist Unity Party. Its chief strength resides in urban labor and it exercises a strong influence in trade unions and shop councils. For the time being it pursues a policy of collaboration with other groups and with the occupation authorities in the interest of reconstruction, but keeps ever in mind its ultimate goal of a socialist, classless society.

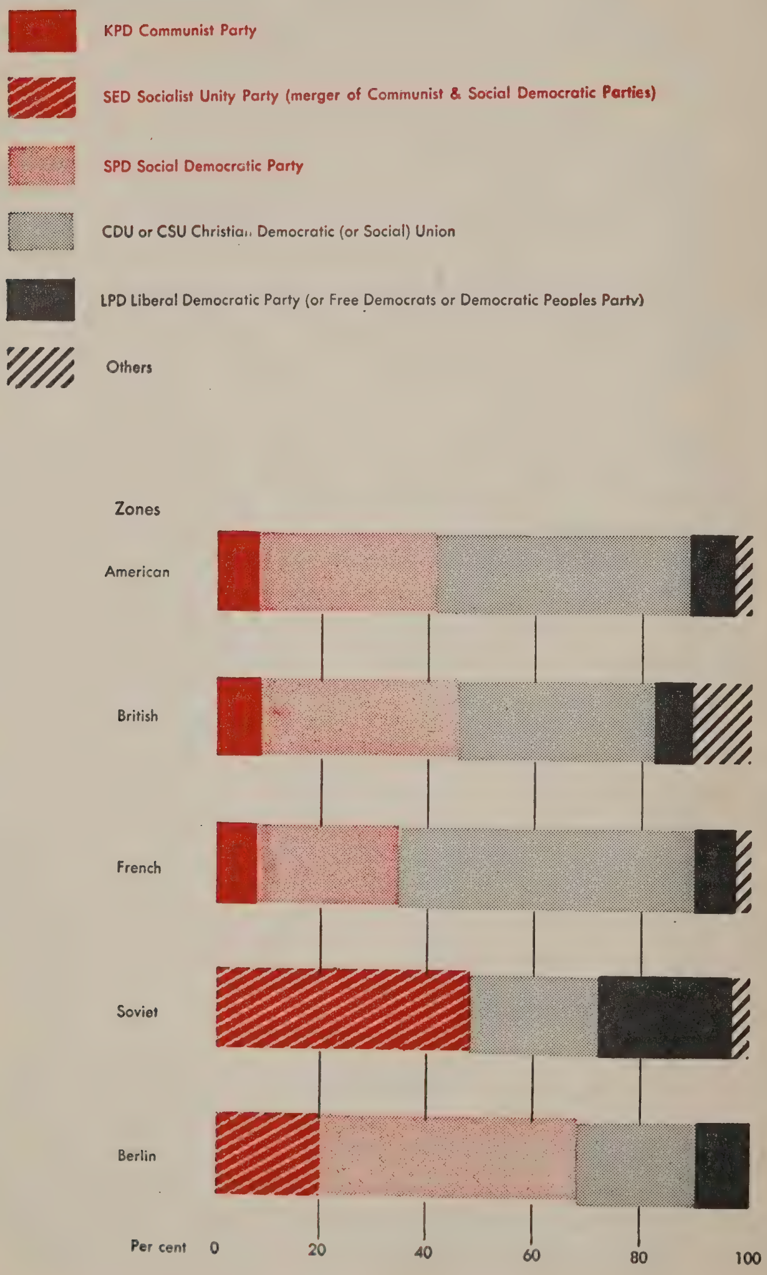
Parties have become increasingly active and more closely organized during 1946. The program of elections in all zones has stimulated interest in political issues, yet, in the presence of occupation forces, there is an air of unreality about German politics. Party programs are framed with a view to the wishes of the occupying powers and any judgment as to the lasting character or relative political strength of German parties would be premature so long as military government continues.

(*b*) *Elections.* It has been United States policy to foster democratic development by holding free elections. In this respect this Government has been in advance of the other powers. The first postwar elections in Germany, January 20 and 27, 1946, were for local councils in communities of less than 20,000 in the U.S. zone. Later elections have occurred as follows: for larger towns and rural counties, April 28; for cities, May 26; for *Land* constitutional assemblies, June 30; on *Länder* constitutions and for *Länder* diets, November 24 and December 1. Participation of qualified voters has been large, ranging from 60 to 89 percent. As a consequence of this series of elections two dominating parties have emerged, the CDU (CSU in Bavaria) and the SPD. The former has been victorious by a decisive margin in Bavaria, by a narrower margin in North Württemberg-Baden; the latter has won a substantial plurality in Greater Hesse. Neither Communists nor Liberal Democrats have attained as high as 10 percent of the vote in any one of the *Länder*. German administration in the U.S. zone is now, within the limitations imposed by military government, responsible at all levels to democratically elected councils or assemblies.

(*c*) *Constitutions.* The United States has also taken the initiative in seeking to restore a constitutional basis for the political life of Germany. In each *Land* of the U.S. zone constitutional assemblies, chosen by popular election on June 30, 1946, convened during the summer and drew up state constitutions on the basis of initial drafts prepared by special committees appointed by the three ministers-president. Vigorous controversy centered around such issues as the

1946 election results

Strength of political parties



nature and powers of the executive, the existence and composition of a second chamber, religious influence in the schools, and the socialization of key industries. Military government gave a free hand to the assemblies except to prescribe that the documents insure democratic processes, the safeguarding of civil rights, and the supremacy of law. The three constitutions, as finally drafted by the assemblies and approved in October by OMGUS, embody the customary German pattern of parliamentary government through ministers-president subject to popular diets. Special stress is placed on guarantees of civil liberties, an independent judiciary, and popular checks both on administration and legislation.

The constitutions were presented to the electorates on November 24 and December 1, 1946. In all three *Länder* they were approved by substantial majorities. In Hesse[34] article 41 of the constitution, providing for socialization of mines, power, iron and steel production, and rail transport, was voted upon separately and approved. As of January 1, 1947, the governments of the three *Länder* of the U.S. zone have rested upon a basis of democratic control through the mechanism of cabinets responsible to popularly elected diets and the role of military government in internal German affairs has been reduced to a minimum.

3. Other Zones

In the absence of Control Council agreement on specific policies for the revival of political life in Germany, zonal policies have varied considerably. In the British and French zones, active political life was not at first encouraged by the authorities, but has developed more rapidly during the latter part of 1946. Major party groups correspond closely with those of the U.S. zone, except that the Center Party has reappeared in the British zone and a strong Lower Saxony State Party in Hanover. Separatist parties have appeared in the Rhineland areas without developing significant popular strength. The Soviet authorities have sought to direct political activity toward basic social and economic reform. Extensive programs of land reform and socialization of key industries have been realized in the states of the Soviet zone. The reform issue has given rise to a cleavage between Right and Left, and Soviet authorities have sponsored and brought to fruition the merger of the two Left parties, Socialists and Communists, in a Socialist Unity Party (SED), proclaimed at a joint party conference on April 21, 1946.

---

[34] The name of this *Land* was changed by the constitution from Greater Hesse to Hesse.

The traditional conflict between Right and Left has reappeared throughout all zones as the earlier anti-Nazi coalitions have disintegrated. Communists are most aggressive in the attack by the Left upon the traditional economic order. The Socialists, who urge a more moderate program of reform, command a much wider popular following. In the British zone a consolidation of the extreme Right was effected in July to form the German Conservative Association. Clerical influence is especially strong in the Rhineland, particularly in the French zone, and in South Germany. Current partisan activity relates to such issues as denazification, socialization, federalism, religious education, and programs for economic rehabilitation.

The first elections in zones other than the American and in Berlin were held in the fall of 1946. Local elections in the British zone September 15 and October 13 indicated an almost even balance between the CDU and SPD, each polling slightly more than one third of the total votes, with the Communists securing from 5 to 9 percent. The independent vote was large. In local elections in the French zone on the same dates, the CDU won an overwhelming plurality, outnumbering all other parties combined and the Socialists by more than two to one.

In the Soviet zone local elections were held on September 1, 8, and 15. The Socialist Unity Party (SED) won a clear majority over the Christian Democrats and Liberal Democrats in all provinces. This victory was repeated, though by reduced pluralities, in the election of provincial diets on October 20.

The only election to be held under quadripartite auspices was the Berlin municipal election of October 20 for city and district councils. This resulted in a decisive victory for the Social Democratic Party which won 48.7 percent of the total vote. The CDU ran second with 22.2 percent, ahead of the SED, which polled 19.6 percent of the votes.

At the beginning of 1947, there was as yet no constitutional basis for German political life outside the American zone, except in Berlin, where a provisional municipal constitution was in effect. Draft constitutions were being considered, however, by the provincial governments of the Soviet zone, and also by the advisory assemblies of the French zone. The British authorities were planning for the election of constituent assemblies in the states of their zone in the spring of 1947.

4. The German Political Picture

German political life, a year and a half after the war, presents a picture of a people still groping for a way out of catastrophe and uncertain as to their political objectives. The renewal of an autonomous political life has barely begun and there is no clear major trend apparent. Recent elections have pointed to a reversion to pre-Hitler party groupings and programs. The Right is strongest in the French and U.S.-controlled areas of southern and Rhenish Germany, except in Hesse. There is a fairly even balance of forces in the British-controlled industrial northwest, while the Left is dominant in the eastern Soviet-ruled areas and in Berlin.

The evolution of democracy in Germany will be hampered to the extent that controversial questions now pending among the Allied governments are not resolved. United States policy emphasizes the establishment of democratic procedures and freedoms on the basis of autonomous political action by the Germans. British policy is directed toward administrative efficiency and economic revival, with some measure of socialization of basic industries. French policy strongly resists all centralizing tendencies and seeks a definite orientation of the Rhineland toward France. Soviet policy attempts to reconcile the pressing need for maximum reparations from Germany with a desire to rebuild a German state that will be friendly to Communist ideology and to broader Soviet aims in Europe. The four powers have reached no agreement on implementing the Potsdam principles and political life in the various zones continues to develop along divergent lines. Further action looking to a harmonizing of these developments will depend upon agreements at the intergovernmental level concerning Germany's future.

J. TRADE UNIONS AND LABOR ACTIVITIES

United States policy has been directed toward the revival of free trade unions and other types of democratic worker associations as an essential step toward the democratization of German economic and political life.

Following the collapse of the Nazi regime there occurred throughout Germany a spontaneous revival of labor organizations which had been suppressed since 1933. Trade-union committees and shop councils sprang into being, composed both of old trade-union leaders and of younger militant anti-Nazi elements. These were often linked with the "anti-Fascist" committees which took the initiative in attacking residual Nazi forces and in reviving free political activity. From the beginning, labor elements have been a strong factor in denazification activities and have also urged participation of labor in management (*Mitbestimmungsrecht*).

Military government, while favoring a genuinely democratic union movement, withheld formal recognition of unions until September 1945 because of the unstable conditions during the early occupation.

American policy has emphasized the principle of democratic control of unions by their membership through free election of union officials and the political neutrality of the new organizations. Unions have been organized mainly on a functional (industrial or craft) basis. The right of collective bargaining has been accorded, subject to controls essential to the purposes of the occupation; wages and working hours are still regulated by governmental authority and not subject to bargaining. Election of shop stewards and councils by secret ballot is authorized. Unions have participated in the operation of the Labor Offices and social-insurance institutions, and in activities relating to denazification, price control, welfare programs, housing, and general economic rehabilitation.

On April 14, 1946, state-wide unions were authorized. Control Council Order No. 31 (June 3, 1946) permits the establishment of trade-union associations on a zonal basis. The first *Land* federation of unions in the U.S. zone was formed in September in Württemberg-Baden and represented 15 organizations. Union membership has increased rapidly during 1946 and in September exceeded 800,000 in the U.S. zone, about 25 percent of all industrial workers. A 12-member trade-union committee assists the *Länderrat* in an advisory capacity on labor and social insurance. A zonal trade-union committee is preparing plans for eventual organization on a zone-wide basis.

No quadripartite agreement on the regulation of trade-union activities has been reached. Control Council Law No. 21 (March 30, 1946) provides for the establishment of labor courts similar to those of the Weimar Republic throughout Germany and Law No. 22 (April 10, 1946) provides for the organization and activities of works councils.[35] These are to be democratically elected, to cooperate with the recognized trade unions, and to be accorded broad rights regarding all matters relative to the interests of the workers in individual enterprises. They are not, however, specifically authorized to participate in the management of industrial concerns, nor to bring action before the labor courts against workers' dismissals. Law No. 35 (August 21, 1946) makes provision for conciliation and arbitration machinery in labor conflicts, centering in the provincial or *Land* labor administrations.

Labor policy in the British and French zones has in general resembled United States policy, although there has been greater resistance by the authorities to the desire of the unions to form centralized organizations. In April 1946 the British authorities finally granted freedom to the unions to choose their own form of organization. Extensive restrictions upon the political activity of unions have been imposed. French authorities are even more insistent upon decentralization and the political neutrality of the unions.

---

[35] See appendixes I–2, 3.

Soviet policy has sought to make labor organizations the positive instruments of occupation policy. Trade-union committees were set up at an early date in Berlin and in the provinces. Works councils were authorized and empowered by law to participate in the functions of management. In the increasing number of publicly controlled or quasi-public enterprises virtually all workers have become union members. Unions were organized hierarchically and rigidly controlled by their executive committees, usually dominated by Communists. Berlin unions, formally under the jurisdiction of the Kommandatura, are included in the Soviet zonal organizations. A Free German Trade Union Federation, embracing 18 industrial unions, has been formed in the Soviet zone and exercises considerable authority over its member organizations. The unions engage in extensive political activity. Their membership is probably in excess of two million. The unions have taken an affirmative stand on such issues as nationalization, land reform, economic planning, and other measures favored or sponsored by the occupation authorities.

The new German labor movement to date has broken away from the former political and sectarian affiliations characteristic of the trade unions of the pre-Hitler period and the trend, more pronounced in the east than in the west, is toward a united labor front. The organizational patterns differ markedly in the two areas. It is too early to predict the form that national labor organizations will ultimately assume or the role that labor will play politically in a united Germany, except to assume that it is likely to be one of major importance in the creation of German democracy.

K. EDUCATION, INFORMATION CONTROL, AND RELIGION

United States policy has recognized from the beginning that the Nazi regime represented not only a physical force but the ideological and spiritual coercion and enslavement of the German people. Nazi ideology was a noxious distillation of militarism and racial myth combined with an extreme and irrational nationalism. By means of the most elaborate machinery of "thought control" of modern times the Nazi tenets were imposed upon the nation through the schools, press, films, radio, and other cultural media, youth organizations, and even the churches. Hence it is a paramount necessity for the pacification of Europe that Germany be psychologically disarmed and that full opportunity be given for the development of constructive cultural and spiritual concepts.

The task of changing the German mind is one which involves far more than reeducation in the academic sense. It involves a total transformation of basic German beliefs, folkways, and attitudes. Above all it makes imperative a change in German collective behavior in relation to public and international affairs. In a sense the entire occupation and all occupation policies are reeducative and it is only out of the entire experience of the German people under occupation that new concepts and attitudes can develop. More specifically, the task requires that three types of agencies or institutions be dealt with: the schools, the churches, and all other agencies for the dissemination of information and ideas. The approach to this problem has been guided at all times by this Government's intention to eradicate all traces of Nazi and militaristic thinking among the German people and to foster attitudes and ideas favorable to democracy, humanitarian ethics, and peace.

1. Education and Youth Activities

The Potsdam agreement asserted: "German education shall be so controlled as completely to eliminate Nazi and militarist doctrines and to make possible the successful development of democratic ideas." Accordingly the initial efforts of military government were directed toward the reorganization of the schools so as to clear the teaching and administrative staff of Nazis and Nazi sympathizers, to eliminate from textbooks and curricula all material which might perpetuate Nazi ideas, and to provide the material means for revived educational procedures. By the fall of 1945, elementary schools (*Volksschulen*) were generally reopened, and during the following year most of the secondary schools and universities began to function again. Vocational, special, and adult schools have become operative on a considerable scale in 1946. At present six of the seven universities in the U.S. zone (Heidelberg, Marburg, Frankfurt, Würzburg, Erlangen, and Munich) are open. The university at Giessen, largely destroyed, functions only as a veterinary school. Tremendous obstacles arising from inadequate housing facilities, equipment, teachers, and textbooks are being steadily overcome. Teacher-training institutions have reopened in substantial numbers—42 in the U.S. zone by July 1946. Denazification has necessarily removed the majority of the elementary- and secondary-school teachers; present incumbents are generally over-age and lacking in vigor. Efficient conduct of the schools must await improved physical conditions and the training of a new generation of teachers.

The direct control and administration of schools has been vested in German local authorities while military government operates in a supervisory capacity. Military government prepared reprints of certain selected textbooks of the Weimar period for temporary use and new textbooks are being prepared by competent German scholars. German educators are giving increasing attention to the formulation of new school and extracurricular programs. The most drastic revision of programs and methods has occurred in the Soviet zone. German authorities in all zones are promoting the *Einheitsschulen*—schools with a common elementary basis for all students irrespective of social background, but with varying opportunities for specialization on the secondary level.[36]

There has been no quadripartite agreement on basic educational procedures beyond the Potsdam principle which each power is seeking to implement in its own zone. United States policy for German reeducation has been set forth in a statement made public August 21, 1946.[37] Reeducation, it is emphasized, must constitute one phase of a general program for German rehabilitation; it must offer hope for the ultimate recovery of national unity and self-respect. Educational reconstruction must be mainly the work of the Germans themselves drawing upon their own cultural resources, but must conform to certain universally valid principles of justice—toleration, respect for human dignity, the reciprocal obligations of all men, nations, and races, individual responsibility for public policy, and the free exchange of ideas. Germany's spiritual isolation must be overcome by the fostering of cultural contacts with other peoples. A program is now under way looking to the exchange of students, scholars, and cultural leaders between Germany and the United States. The task of German reeducation is viewed as a long-range undertaking which may require a generation or more to complete and which can only be developed gradually as German economic and political life is reconstituted.

A special United States Education Mission visited the U.S. zone in the summer of 1946 to survey educational conditions and needs. The Mission's report, embodying certain recommendations, was issued on October 12.[38] This report stressed the importance of a program of effective reeducation in the lasting pacification of Germany. It proposed the elimination of special privilege in the school system, a changed concept of the social studies to foster democratic citizenship, vocational guidance, intensified teacher training, adaptation of higher education to present realities of German life, a constructive program of youth activities, adult education in the field of economic, social, and international problems, and increased cultural contacts between Germany and the outside world. The dispatch of this mission inaugurated the third phase of educational policy (following denazification and the re-opening of schools), in which the United States will assist the Germans in democratizing the structure and functioning of their educational system.

---

[36] The purpose of this reform is to eliminate the traditional caste basis of the German school system which accorded special privileges to the upper classes and thus fostered an aristocratic and militaristic society and outlook.

[37] See appendix J-1.

[38] See appendix J-2 for a summary of the mission's recommendations. The full report appears in *Report of the United States Education Mission to Germany* (Department of State publication 2664, European series 16).

An important aspect of the education program has been the revival of youth activities.[39] The dissolution of the Hitler Youth and the prohibition of quasi-military sports and other activities left German youth without organization and guidance. Military government in October 1945 approved the formation of voluntary local youth groups and provided for the establishment of youth committees in each *Kreis*, composed of responsible local citizens, with authority to supervise organized youth activities. These report to a *Land* youth committee which cooperates with the Ministry of Education. Educational and recreational activities are stressed, and the importance of the political and civic training of youth has recently been emphasized. Occupation troops have been of material assistance in organizing sports and providing recreational facilities. Many youth hostels have been reopened and made available to recognized groups. Special directives (April, August 1946) have placed a full-time officer in charge of liaison with youth groups in each major command area and provided for obligatory participation in the program by all members of the armed forces with increased emphasis on cultural activities.

German youth have responded readily to the military-government program and a wide variety of youth groups have appeared. As of September 1946, 478,000 youths of 10 to 18 years of age (24 percent of the total) were enrolled in youth organizations in the U. S. zone; 2,901 youth groups existed, and 52 hostels were in operation. Over 70 percent of the groups were either sports clubs or affiliates of religious groups.

Youth organization and activities have progressed somewhat similarly in the British and French zones, more slowly in the latter. Political activity is fostered to some extent. In the Soviet zone, youth committees composed of youth leaders (not adults as in the U.S. zone) were set up in the summer of 1945 and made mandatory for all cities and towns. A Central Youth Committee in Berlin exercises jurisdiction over the entire zone. Early in 1946 all youth organizations were linked together in one central body, the Free German Youth

---

[39] See *The Present Status of German Youth* (Department of State publication 2583, European series 11).

(*Freie Deutsche Jugend*). This organization seeks to enlist youth in the tasks of economic and political reconstruction. It is non-partisan but largely Leftist in political complexion and aims. Numerous schools have been established in the Soviet zone for the political orientation of youth along Marxist lines.

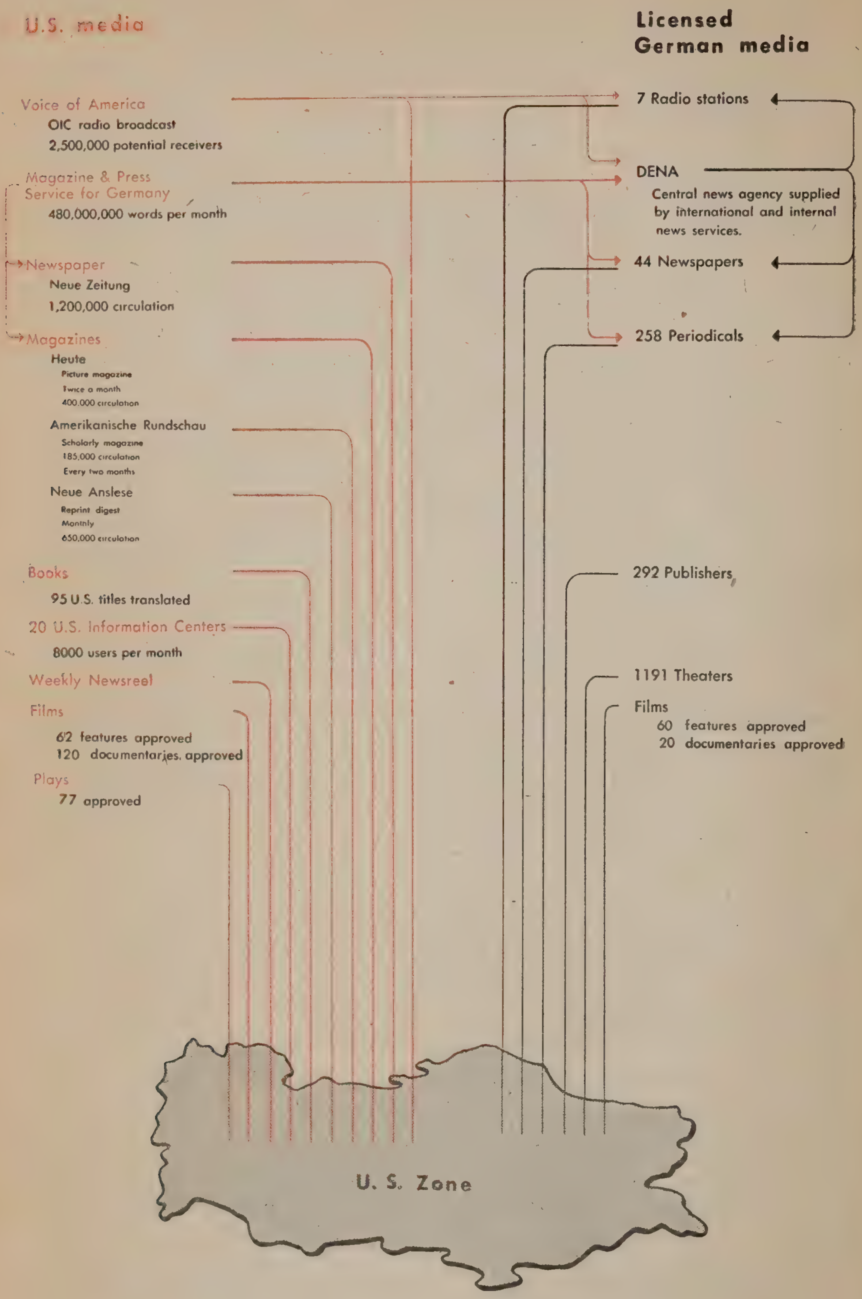
2. Information Control

Since the occupation of Germany it has been considered necessary to control all media for the dissemination of information or opinion to the end that Nazi-militarist propaganda may be thoroughly eliminated and that a free and democratically controlled system of expression and dissemination of ideas may ultimately be established.

German information services have gradually been restored, subject to military supervision. Whereas, in the early days of the occupation, several newspapers were published solely by the occupation authorities, only one of these, *Neue Zeitung*, remains. Over 40 German-edited papers have now been licensed in the U.S. zone, with a circulation of approximately 4,000,000. These are subject to military-government supervision but not to pre-censorship. They are non-partisan, a party press not yet having been sanctioned. Numerous periodicals and book-publishing firms have been licensed. Nazi and militaristic literature has been eliminated from the stocks of all publishing concerns, libraries, and public repositories, except for copies restricted to legitimate uses. The United States now operates radio stations at Berlin, Bremen, Frankfurt, Stuttgart, Munich, Heidelberg, and Kassel. Daily broadcasts originated by the "Voice of America" are relayed on the German stations. By October 1946, 441 theater and music licenses had been issued and 750 cinemas were open. Films and other cultural materials are still mainly supplied by U.S. authorities, although the revival of an indigenous film industry is under way. U.S. information centers had been established in 20 localities by December 1946. A press service (DENA) has been provided, operating first under military-government supervision, then transferred in October 1946 to an association of German newspaper publishers. Every effort is made to make American news services and cultural materials available to the Germans. There are as yet no full-scale party, trade-union, or religious newspapers but limited publication of periodicals and leaflets by such special groups is authorized. The opening of the German mails to American publications is being considered. Interzonal exchange of newspapers and publications on a reciprocal basis is effective among the three western zones.

A special effort has been made to insure that the licensed German media, especially press and radio, are staffed with personnel of definite

Information


U.S. media
Voice of America
OIC radio broadcast
2,500,000 potential receivers
Magazine & Press Service for Germany
480,000,000 words per month
Newspaper
Neue Zeitung
1,200,000 circulation
Magazines
Heute
Picture magazine
Twice a month
400,000 circulation
Amerikanische Rundschau
Scholarly magazine
185,000 circulation
Every two months
Neue Anslese
Reprint digest
Monthly
650,000 circulation
Books
95 U.S. titles translated
20 U.S. Information Centers
8000 users per month
Weekly Newsreel
Films
62 features approved
120 documentaries approved
Plays
77 approved
Licensed German media
7 Radio stations
DENA
Central news agency supplied by international and internal news services.
44 Newspapers
258 Periodicals
292 Publishers
1191 Theaters
Films
60 features approved
20 documentaries approved
U. S. Zone

anti-Nazi records, a fact which imparts to these media a character of democratic leadership.

Work in all fields of information and cultural activity is seriously handicapped by lack of materials, facilities, and competent, reliable personnel. Germany still remains isolated to some degree from the intellectual life of the outside world and it will take time to level all barriers. Zonal lines and policies also operate against a free exchange of ideas within Germany. But U.S. policy is persistently directed toward the revival of free and democratic media of expression by Germans utilizing both German and foreign resources, the eradication of zonal barriers to interchange of ideas within Germany, and the cultural assimilation of Germany into the community of democratic nations.

3. Religious Affairs

In spite of Nazi efforts to "coordinate" the German churches, both Catholic and Evangelical, the organized religious life of Germany was more successful than any other institution in maintaining its corporate integrity. While minority groups did espouse "positive" or "German" Christianity, large elements in all churches persistently, often heroically, resisted Nazi pressure and these now constitute a valuable force for the spiritual regeneration of Germany.

Allied policy, as stated at Potsdam, insures freedom of religion and respect for religious institutions. Nazi innovations, such as the former Reich Ministry for Ecclesiastical Affairs and the post of Reich Bishop, have been abolished and the control of church affairs has been returned to the respective denominations to the extent permitted by Allied requirements for denazification and general security. United States policy has been to accord the fullest possible freedom to religious groups and protection to their property and interests. There has been no interference with internal church organization and affairs or with existing pre-Nazi German legislation affecting the churches, such as provision for support of religious establishments by state taxation. Existing concordats between the former German Reich or states and the Vatican are respected, although held subject to whatever action the Control Council or recognized German state authorities may ultimately wish to take. The reestablishment of denominational and confessional schools as well as the resumption of religious instruction in the secular public schools is held to be a subject for democratic decision by the German people acting through their constituted authorities.

Military government has from the beginning accorded to anti-Nazi churchmen an important advisory role in the reconstitution of civic life. It has facilitated the holding of church conferences, both

Catholic and Protestant. In August 1945 a new provisional government for the reorganized "Evangelical Church in Germany" was established by leading anti-Nazi churchmen. Contacts between German religious leaders and representatives of foreign church groups have been encouraged. Churches have been granted the right to resume religious publications within limits imposed by shortage of materials and facilities. The Catholic hierarchy in Germany has resumed formal relations with the Vatican. The Jewish communities, in spite of persecution and depletion, are being gradually reconstructed in the larger centers of population.

The churches have become a significant force in German reconstruction. While the churches have usually sought to avoid direct participation in political activity, the Catholic Church is an element of considerable importance in the support of the "Christian" parties, such as the CDU, the CSU, and the revived Center Party of the British zone. Freedom to engage in religious and welfare activities prevails generally throughout Germany, although more restricted in the Soviet zone than in the west, particularly in educational matters. The churches are again seeking to assume the moral leadership of Germany and in particular to provide guidance for youth. There is an inherent conflict within the Evangelical churches between the Confessional group, which accepts the thesis of collective war guilt and urges democratic reconstruction, and the traditional nationalistic elements, which have been wont to associate Lutheranism with a strong state power. One problem of the occupation authorities is to forestall any attempt at nationalistic reaction which might assume a religious guise.

CONCLUSION: THE TASKS OF THE FUTURE

By the end of the year 1946, nearly a year and a half after Potsdam, there was still no general agreement among the four occupying powers on many major issues relating to Germany's reconstruction and future position in the community of nations. It was widely felt that the Potsdam agreement was in need of revision and the German question had come to occupy a prominent place on the agenda of the Council of Foreign Ministers. The immediate tasks relating to the liquidation of the German military establishment and war potential were largely completed. The powers had begun to address themselves to the long-range and immensely intricate problems of Germany's economic, political, and cultural reconstruction. It had come to be generally recognized that solution of the German problem was a matter of many years, and that the German settlement was integral with the whole European settlement and with the broader structure of security and peace.

Germany has become very definitely the chief theater in which the major powers must seek accommodation of their respective national views through compromise and agreement if the peace is to be firmly established. The assumption that Potsdam represented a genuine meeting of minds and hence an adequate blueprint for joint control of Germany has been proved erroneous by the experience of the last year and a half as the powers have developed serious divergences of policy in their application of the Potsdam principles. The Control Council, as Secretary Byrnes pointed out at Stuttgart, has failed, in many vital respects, to govern Germany and has reached a dangerous impasse because of inability to reach agreement on fundamental issues. Because of the central importance of the German problem, the achievement of peace for all of Europe is thus endangered. The year 1947 will witness a determined effort of the powers to find common ground for a German settlement and in so doing to consolidate the structure of peace and security in Europe.

The Council of Foreign Ministers, prior to 1947, was too deeply engrossed in the task of formulating treaties with the satellite states to devote much effort to the German problem. In its meeting in New York in December 1946, however, the Council agreed that German matters, as well as Austrian, should be dealt with by the deputies of the foreign ministers at London in January and that the Council itself should take up the German problem at Moscow in March.

It was agreed that at London, beginning on January 14, 1947, the deputies of the foreign ministers of the four occupying powers should hear the views of the governments of the other Allied states most immediately concerned with the German settlement and consider questions of procedure with regard to the preparation of a peace treaty for Germany. The agenda for the meeting of the Council of Foreign Ministers at Moscow, beginning on March 10, 1947, provided that the ministers review the achievements of the Control Council for Germany relative to demilitarization, denazification, democratization, economic problems, reparation, and the establishment of central German administrations. Other problems to be considered were the liquidation of Prussia, the general political, economic, and financial situation of Germany, the question of a future provisional government for Germany, and such basic issues related to the preparation of a peace treaty as the determination of permanent boundaries, the control of the Ruhr and Rhineland, and measures for disarmament and demilitarization.

The application of a peace treaty for Germany will await the establishment of a provisional German government legally competent to sign the treaty and to accept the responsibilities which such a treaty may impose, unless, as has been suggested, its provisions should be imposed upon Germany as an international statute prior to the formation of a central government.

The chief tasks of the future may be briefly reviewed. The frontiers of the new Germany, as yet unsettled, must be determined and assured by international guarantee. The vast complex of problems involved in the renewal of the German economy must be successfully attacked and solved. This solution must liquidate the reparations issue, make provision for legitimate German needs, and achieve an integral and reciprocal relationship between German economic life and the welfare of the hundreds of millions of Europeans dependent to some degree upon the proper functioning of the German productive mechanism. The structure of the new German state must be securely established and given a genuinely democratic content. The task of transforming those aspects of German social structure, mentality, and culture which have culminated in Nazism must increasingly engage the attention of the powers and of the Germans themselves for a generation to come. And the new Germany must be brought securely and lastingly within the scope of a security system, based upon treaty arrangements or upon the United Nations security organization, which will consolidate the Allied victory and insure that Germany will never again menace the peace of the world.

APPENDIXES

Appendix A

FRONTIERS

Appendix A

FRONTIERS

1. POTSDAM AGREEMENT

Excerpts *Released August 2, 1945*

. . . .

VI. City of Koenigsberg and the Adjacent Area

The conference examined a proposal by the Soviet Government that pending the final determination of territorial questions at the peace settlement the section of the western frontier of the Union of Soviet Socialist Republics which is adjacent to the Baltic Sea should pass from a point on the eastern shore of the Bay of Danzig to the east, north of Braunsberg-Goldap, to the meeting point of the frontiers of Lithuania, the Polish Republic and East Prussia.

The conference has agreed in principle to the proposal of the Soviet Government concerning the ultimate transfer to the Soviet Union of the City of Koenigsberg and the area adjacent to it as described above subject to expert examination of the actual frontier.

The President of the United States and the British Prime Minister have declared that they will support the proposal of the conference at the forthcoming peace settlement.

. . . .

IX. Poland

The conference considered questions relating to the Polish Provisional Government and the western boundary of Poland.

On the Polish Provisional Government of National Unity they defined their attitude in the following statement:

A—We have taken note with pleasure of the agreement reached among representative Poles from Poland and abroad which has made possible the formation, in accordance with the decisions reached at the Crimea Conference, of a Polish Provisional Government of National Unity recognized by the three powers. The establishment by the British and United States Governments of diplomatic relations with the Polish Provisional Government has resulted in the withdrawal of their recognition from the former Polish Government in London, which no longer exists.

The British and United States Governments have taken measures to protect the interest of the Polish Provisional Government as the recognized government of the Polish State in the property belonging to the Polish State located in their territories and under their control, whatever the form of this property may be. They have further taken measures to prevent alienation to third parties of such property. All proper facilities will be given to the Polish Provisional Government for the exercise of the ordinary legal remedies for the recovery of any property belonging to the Polish State which may have been wrongfully alienated.

The three powers are anxious to assist the Polish Provisional Government in facilitating the return to Poland as soon as practicable of all Poles abroad who wish to go, including members of the Polish armed forces and the Merchant Marine. They expect that those Poles who return home shall be accorded personal and property rights on the same basis as all Polish citizens.

The three powers note that the Polish Provisional Government in accordance with the decisions of the Crimea Conference has agreed to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot in which all democratic and anti-Nazi parties shall have the right to take part and to put forward candidates, and that representatives of the Allied press shall enjoy full freedom to report to the world upon developments in Poland before and during the elections.

B—The following agreement was reached on the western frontier of Poland:

In conformity with the agreement on Poland reached at the Crimea Conference the three heads of government have sought the opinion of the Polish Provisional Government of National Unity in regard to the accession of territory in the north and west which Poland should receive. The President of the National Council of Poland and members of the Polish Provisional Government of National Unity have been received at the conference and have fully presented their views. The three heads of government reaffirm their opinion that the final delimitation of the western frontier of Poland should await the peace settlement.

The three heads of government agree that, pending the final determination of Poland's western frontier, the former German territories east of a line running from the Baltic Sea immediately west of Swinemunde, and thence along the Oder River to the confluence of the western Neisse River and along the western Neisse to the Czechoslovak frontier, including that portion of East Prussia not placed under the administration of the Union of Soviet Socialist Republics in accordance with the understanding reached at this conference and including the area of the former free City of Danzig, shall be under the administration of the Polish State and for such purposes should not be considered as part of the Soviet zone of occupation in Germany.

2. RESTATEMENT OF U.S. POLICY ON GERMANY

Address by the Secretary of State, Delivered in Stuttgart, Germany September 6, 1946[1]

Excerpt

. . . .

Austria has already been recognized as a free and independent country. Her temporary and forced union with Germany was not a happy event for either country, and the United States is convinced that it is in the interest of both countries and the peace of Europe that they should pursue their separate ways.

At Potsdam specific areas which were part of Germany were provisionally assigned to the Soviet Union and to Poland, subject to the final decisions of the Peace Conference. At that time these areas were being held by the Soviet and Polish armies. We were told that Germans in large numbers were fleeing from these areas and that it would in fact, because of the feelings aroused by the war, be difficult to reorganize the economic life of these areas if they were not administered as integral parts in the one case of the Soviet Union and in the other case of Poland.

The heads of government agreed to support at the peace settlement the proposal of the Soviet Government concerning the ultimate transfer to the Soviet Union of the city of Königsberg and the area adjacent to it. Unless the Soviet Government changes its views on the subject we will certainly stand by our agreement.

With regard to Silesia and other eastern German areas, the assignment of this territory to Poland by Russia for administrative purposes had taken place before the Potsdam meeting. The heads of government agreed that, pending the final determination of Poland's western frontier, Silesia and other eastern German areas should be under the administration of the Polish state and for such purposes should not be considered as a part of the Soviet zone of occupation in Germany. However, as the Protocol of the Potsdam Conference makes clear, the heads of government did not agree to support at the peace settlement the cession of this particular area.

---

[1] For full text see *Restatement of U.S. Policy on Germany* (Department of State publication 2616, European Series 13).

The Soviets and the Poles suffered greatly at the hands of Hitler's invading armies. As a result of the agreement at Yalta, Poland ceded to the Soviet Union territory east of the Curzon Line. Because of this, Poland asked for revision of her northern and western frontiers. The United States will support a revision of these frontiers in Poland's favor. However, the extent of the area to be ceded to Poland must be determined when the final settlement is agreed upon.

The United States does not feel that it can deny to France, which has been invaded three times by Germany in 70 years, its claim to the Saar territory, whose economy has long been closely linked with France. Of course, if the Saar territory is integrated with France she should readjust her reparation claims against Germany.

Except as here indicated, the United States will not support any encroachment on territory which is indisputably German or any division of Germany which is not genuinely desired by the people concerned. So far as the United States is aware the people of the Ruhr and the Rhineland desire to remain united with the rest of Germany. And the United States is not going to oppose their desire . . . .

Appendix B

OCCUPATION AND CONTROL

Appendix B

OCCUPATION AND CONTROL

1. DEFEAT AND ASSUMPTION OF SUPREME AUTHORITY

Declaration regarding the defeat of Germany and the assumption of supreme authority with respect to Germany by the Governments of the United States of America, the Union of Soviet Socialist Republics, the United Kingdom and the Provisional Government of the French Republic[1]

Press Release 480 [*June 5, 1945*]
Excerpt

The German armed forces on land, at sea and in the air have been completely defeated and have surrendered unconditionally and Germany, which bears responsibility for the war, is no longer capable of resisting the will of the victorious Powers. The unconditional surrender of Germany has thereby been effected, and Germany has become subject to such requirements as may now or hereafter be imposed upon her.

There is no central Government or authority in Germany capable of accepting responsibility for the maintenance of order, the administration of the country and compliance with the requirements of the victorious Powers.

It is in these circumstances necessary, without prejudice to any subsequent decisions that may be taken respecting Germany, to make provision for the cessation of any further hostilities on the part of the German armed forces, for the maintenance of order in Germany and for the administration of the country, and to announce the immediate requirements with which Germany must comply.

The Representatives of the Supreme Commands of the United States of America, the Union of Soviet Socialist Republics, the United Kingdom and the French Republic, hereinafter called the "Allied Representatives," acting by authority of their respective Governments and in the interest of the United Nations, accordingly make the following Declaration:—

The Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, hereby assume supreme authority with respect to Germany, including all the powers possessed by the German Government, the High Command and any state, municipal, or local government or authority. The assumption, for the purposes stated above, of the said authority and powers does not effect the annexation of Germany.

---

[1] For full text see *The Axis in Defeat* (Department of State publication 2423), pp. 62–70.

The Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, will hereafter determine the boundaries of Germany or any part thereof and the status of Germany or of any area at present being part of German territory.

. . . .

2. ZONES OF OCCUPATION

Statement by the Governments of the United States of America, the Union of Soviet Socialist Republics, the United Kingdom and the Provisional Government of the French Republic on zones of occupation in Germany

Press Release 477 [*June 5, 1945*]

1. Germany, within her frontiers as they were on 31st December, 1937, will, for the purposes of occupation, be divided into four zones, one to be alloted to each Power as follows:–

an eastern zone to the Union of Soviet Socialist Republics;
a north-western zone to the United Kingdom;
a south-western zone to the United States of America;
a western zone to France.

The occupying forces in each zone will be under a Commander-in-Chief designated by the responsible Power. Each of the four Powers may, at its discretion, include among the forces assigned to occupation duties under the command of its Commander-in-Chief, auxiliary contingents from the forces of any other Allied Power which has actively participated in military operations against Germany.

2. The area of "Greater Berlin" will be occupied by forces of each of the four Powers. An Inter-Allied Governing Authority (in Russian, Komendatura) consisting of four Commandants, appointed by their respective Commanders-in-Chief, will be established to direct jointly its administration.

3. CONTROL MACHINERY

Statement by the Governments of the United States of America, Union of Soviet Socialist Republics, United Kingdom, and the Provisional Government of the French Republic on control machinery in Germany

Press Release 478 [*June 5, 1945*]

1. In the period when Germany is carrying out the basic requirements of unconditional surrender, supreme authority in Germany will be exercised, on instructions from their Governments, by the Soviet, British, United States, and French Commanders-in-Chief, each in his own zone of occupation, and also jointly, in matters affecting Germany as a whole. The four Commanders-in-Chief will together constitute the Control Council. Each Commander-in-Chief will be assisted by a political adviser.

2. The Control Council, whose decisions shall be unanimous, will ensure appropriate uniformity of action by the Commanders-in-Chief in their respective zones of occupation and will reach agreed decisions on the chief questions affecting Germany as a whole.

3. Under the Control Council, there will be a permanent Co-ordinating Committee composed of one representative of each of the four Commanders-in-Chief and a Control Staff organised in the following Divisions (which are subject to adjustment in the light of experience):

Military; Naval; Air; Transport; Political; Economic; Finance; Reparation, Deliveries and Restitution; Internal Affairs and Communications; Legal; Prisoners of War and Displaced Persons; Manpower.

There will be four heads of each Division, one designated by each Power. The staffs of the Divisions may include civilian as well as military personnel, and may also in special cases include nationals of other United Nations appointed in a personal capacity.

4. The functions of the Co-ordinating Committee and of the Control Staff will be to advise the Control Council, to carry out the Council's decisions and to transmit them to appropriate German organs, and to supervise and control the day-to-day activities of the latter.

5. Liaison with the other United Nations Governments chiefly interested will be established through the appointment by such Governments of military missions (which may include civilian members) to the Control Council. These missions will have access through the appropriate channels to the organs of control.

6. United Nations organisations will, if admitted by the Control Council to operate in Germany, be subordinate to the Allied control machinery and answerable to it.

7. The administration of the "Greater Berlin" area will be directed by an Inter-Allied Government Authority, which will operate under the general direction of the Control Council, and will consist of four Commandants, each of whom will serve in rotation as Chief Commandant. They will be assisted by a technical staff which will supervise and control the activities of the local German organs.

8. The arrangements outlined above will operate during the period of occupation following German surrender, when Germany is carrying out the basic requirements of unconditional surrender. Arrangements for the subsequent period will be the subject of a separate agreement.

4. MILITARY GOVERNMENT

Directive to Commander in Chief of United States Forces of Occupation Regarding the Military Government of Germany[2]

Press Release 769 *[October 17, 1945]*
JCS 1067 (April 1945) revised
Excerpts

1. The Purpose and Scope of this Directive:

This directive is issued to you as Commanding General of the United States forces of occupation in Germany. As such you will serve as United States member of the Control Council and will also be responsible for the administration of military government in the zone or zones assigned to the United States for purposes of occupation and administration. It outlines the basic policies which will guide you in those two capacities after the termination of the combined command of the Supreme Commander, Allied Expeditionary Force.

This directive sets forth policies relating to Germany in the initial post-defeat period. As such it is not intended to be an ultimate statement of policies of this Government concerning the treatment of Germany in the post-war world. It is therefore essential that, during the period covered by this directive, you assure that surveys are constantly maintained of economic, industrial, financial, social and political conditions within your zone and that results of such surveys and such other surveys as may be made in other zones are made available to your Government, through the Joint Chiefs of Staff. These surveys should be developed in such manner as to serve as a basis for determining changes in the measures of control set forth herein as well as for the progressive formulation and development of policies to promote the basic objectives of the United States. Supplemental directives will be issued to you by the Joint Chiefs of Staff as may be required.

---

[2] For full text of JCS 1067 see *The Axis in Defeat* (Department of State publication 2423), pp. 40–59.

As a member of the Control Council you will urge the adoption by the other occupying powers of the principles and policies set forth in this directive and, pending Control Council agreement, you will follow them in your zone. It is anticipated that substantially similar directives will be issued to the Commanders in Chief of the U. K., USSR and French forces of occupation.

. . . . . .

2. The Basis of Military Government:

a. The rights, power and status of the military government in Germany are based upon the unconditional surrender or total defeat of Germany.

b. Subject to the provisions of paragraph 3 below, you are, by virtue of your position, clothed with supreme legislative, executive, and judicial authority in the areas occupied by forces under your command. This authority will be broadly construed and includes authority to take all measures deemed by you necessary, appropriate or desirable in relation to military exigencies and the objectives of a firm military government.

c. You will issue a proclamation continuing in force such proclamations, orders and instructions as may have heretofore been issued by Allied Commanders in your zone, subject to such changes as you may determine. Authorizations of action by the Supreme Commander, Allied Expeditionary Force, may be considered as applicable to you unless inconsistent with this or later directives.

3. The Control Council and Zones of Occupation:

a. The four Commanders-in-Chief, acting jointly, will constitute the Control Council in Germany which will be the supreme organ of control over Germany in accordance with the agreement on Control Machinery in Germany. For purposes of administration of military government, Germany has been divided into four zones of occupation.

b. The authority of the Control Council to formulate policy and procedures and administrative relationships with respect to matters affecting Germany as a whole will be paramount throughout Germany. You will carry out and support in your zone the policies agreed upon in the Control Council. In the absence of such agreed policies you will act in accordance with this and other directives of the Joint Chiefs of Staff.

c. The administration of affairs in Germany shall be directed towards the decentralization of the political and administrative structure and the development of local responsibility. To this end you will encourage autonomy in regional, local and municipal agencies of German administration. The German economic structure shall also be decentralized. The Control Council may, however, to the minimum extent required for the fulfillment of purposes set forth herein, permit centralized administration or establish central control of (a) essential national public services such as railroads, communications and power, (b) finance and foreign affairs, and (c) production and distribution of essential commodities.

d. The Control Council should adopt procedures to effectuate, and you will facilitate in your zone, the equitable distribution of essential commodities between the zones. In the absence of a conflicting policy of the Control Council, you may deal directly with one or more zone commanders on matters of special concern to such zones.

e. Pending the formulation in the Control Council of uniform policies and procedures with respect to inter-zonal travel and movement of civilians, no civilians shall be permitted to leave or enter your zone without your authority, and no Germans within your zone shall be permitted to leave Germany except for specific purposes approved by you.

f. The military government personnel in each zone, including those dealing with regional and local branches of the departments of any central German administrative machinery, shall be selected by authority of the Commander of that zone except that liaison officers may be furnished by the Commanders of the other three zones. The respective Commanders-in-Chief shall have exclusive jurisdiction throughout the whole of Germany over the members of the armed forces under their command and over the civilians who accompany them.

g. The Control Council should be responsible for facilitating the severance of all governmental and administrative connections between Austria and Germany and the elimination of German economic influences in Austria. Every assistance should be given to the Allied Administration in Austria in its efforts to effectuate these purposes.

4. *Basic Objectives of Military Government in Germany:*

a. It should be brought home to the Germans that Germany's ruthless warfare and the fanatical Nazi resistance have destroyed the German economy and made chaos and suffering inevitable and that the Germans cannot escape responsibility for what they have brought upon themselves.

b. Germany will not be occupied for the purpose of liberation but as a defeated enemy nation. Your aim is not oppression but to occupy Germany for the purpose of realizing certain important Allied objectives. In the conduct of your occupation and administration you should be just but firm and aloof. You will strongly discourage fraternization with the German officials and population.

c. The principal Allied objective is to prevent Germany from ever again becoming a threat to the peace of the world. Essential steps in the accomplishment of this objective are the elimination of Nazism and militarism in all their forms, the immediate apprehension of war criminals for punishment, the industrial disarmament and demilitarization of Germany, with continuing control over Germany's capacity to make war, and the preparation for an eventual reconstruction of German political life on a democratic basis.

d. Other Allied objectives are to enforce the program of reparations and restitution, to provide relief for the benefit of countries devastated by Nazi aggression, and to ensure that prisoners of war and displaced persons of the United Nations are cared for and repatriated.

. . . .

Appendix C

DISARMAMENT AND DEMILITARIZATION

Appendix C

DISARMAMENT AND DEMILITARIZATION

1. JCS 1067

Directive to Commander in Chief of United States Forces of Occupation Regarding the Military Government of Germany

Press Release 769 [*October 17, 1945*]
JCS 1067 (April 1945) revised
Excerpt

. . . .

7. ***Demilitarization:***

a. In your zone you will assure that all units of the German armed forces, including para-military organizations, are dissolved as such, and that their personnel are promptly disarmed and controlled. Prior to their final disposition, you will arrest and hold all military personnel who are included under the provisions of paragraph 8.

b. The Control Council should proclaim, and in your zone you will effectuate, the total dissolution of all military and para-military organizations, including the General Staff, the German Officers Corps, the Reserve Corps and military academies, together with all associations which might serve to keep alive the military tradition in Germany.

c. You will seize or destroy all arms, ammunition and implements of war and stop the production thereof.

d. You will take proper steps to destroy the German war potential, as set forth elsewhere in this directive.

2. ADDITIONAL REQUIREMENTS

Agreement Between Governments of the United Kingdom, United States of America, and Union of Soviet Socialist Republics, and the Provisional Government of the French Republic on Certain Additional Requirements To Be Imposed on Germany[1]

Excerpts [*September 20, 1945*]

. . . .

1. All German land, naval and air forces, the S. S., S. A., S. D. and Gestapo, with all their organizations, staffs and institutions, including

---

[1] For full text see *The Axis in Defeat* (Department of State publication 2423), pp. 71–81.

the General Staff, the Officers' Corps, Reserve Corps, military schools, war veterans' organizations and all other military and quasi-military organizations, together with all clubs and associations which serve to keep alive the military tradition in Germany, shall be completely and finally abolished in accordance with methods and procedures to be laid down by the Allied Representatives.

2. All forms of military training, military propaganda and military activities of whatever nature, on the part of the German people, are prohibited, as well as the formation of any organization initiated to further any aspect of military training and the formation of war veterans' organizations or other groups which might develop military characteristics or which are designed to carry on the German military tradition, whether such organizations or groups purport to be political, educational, religious, social, athletic or recreational or of any other nature.

. . . .

13. (a) The manufacture, production and construction, and the acquisition from outside Germany, of war material and of such other products, used in connection with such manufacture, production or construction, as the Allied Representatives may specify, and the import, export and transit thereof, are prohibited, except as directed by the Allied Representatives.

(b) The German authorities will immediately place at the disposal of the Allied Representatives all research, experiment, development and design directly or indirectly relating to war or the production of war material, whether in government or private establishments, factories, technological institutions or elsewhere.

. . . .

3. POTSDAM AGREEMENT

Excerpt *Released August 2, 1945*

. . . .

III. Germany: The Political and Economic Principles to Govern the Treatment of Germany in the Initial Control Period

A. POLITICAL PRINCIPLES

. . . .

3. The purposes of the occupation of Germany by which the Control Council shall be guided are:

(i) The complete disarmament and demilitarization of Germany and the elimination or control of all German industry that could be used for military production. To these ends:

(a) All German land, naval and air forces, the S.S., S.A., S.D., and Gestapo, with all their organizations, staffs and institutions, including the General Staff, the Officers' Corps, Reserve Corps, military schools, war veterans' organizations and all other military and quasi-military organizations, together with all clubs and associations which serve to keep alive the military tradition in Germany, shall be completely and finally abolished in such manner as permanently to prevent the revival or reorganization of German militarism and Nazism.

(b) All arms, ammunition and implements of war and all specialized facilities for their production shall be held at the disposal of the Allies or destroyed. The maintenance and production of all aircraft and all arms, ammunition and implements of war shall be prevented.

(ii) To convince the German people that they have suffered a total military defeat and that they cannot escape responsibility for what they have brought upon themselves, since their own ruthless warfare and the fanatical Nazi resistance have destroyed German economy and made chaos and suffering inevitable.

. . . .

4. LAW NO. 154, OMGUS

Elimination and Prohibition of Military Training

[July 14, 1945]

1. In order to discontinue and prevent recurrence of military training in any form within occupied territory, it is hereby ordered:

a. All activity of any organization, group of persons or individual which teaches directly or indirectly the theory, principles, technique, or mechanics of war or tends to prepare the participants for any war activity is hereby prohibited and declared illegal and any such organization or group of persons is hereby declared illegal and ordered immediately disbanded.

b. All military educational institutions will be closed immediately and are declared illegal.

c. All other educational institutions are hereby prohibited from including military training in any form or courses in military subjects in their curricula.

d. All veterans' organizations and all organizations or groups which tend to perpetuate the German military tradition are hereby declared illegal and ordered immediately disbanded.

e. The use of military or Nazi uniforms, insignia, flags, banners or tokens and the employment of distinctive Nazi or military salutes, gestures or greetings are hereby prohibited and declared illegal; and no awards of military or Nazi decorations, honors or medals shall be made or received.

f. The manufacture, sale, distribution, possession, or use by any organization, group of persons, or individual, of simulated or miniature weapons or other aids to instruction in, or devices to facilitate the accomplishment of military training, is prohibited and declared illegal.

g. All civil or military parades and all military formations of any character are hereby prohibited and declared illegal except in so far as expressly permitted by authority of the Military Government.

h. The singing or playing in public or before or in any group or gathering of any military or Nazi songs or music or German national or Nazi anthems by any organization, group of persons, or individual is hereby prohibited and declared illegal.

2. Nothing herein shall be construed to prohibit the retention of military organizations and formations pending demobilization by Allied authorities, or the use of uniforms, insignia and salutes by the members thereof who have not been demobilized, all to the extent and in the manner that may be expressly authorized by the Military Government.

3. For the purpose of this Law the term "military" is to be construed as referring to the German Army, Navy and Air Force, including all auxiliary and para-military organizations and formations.

4. Any person violating any of the provisions of this Law shall, upon conviction by a Military Government Court, be liable to any lawful punishment, including death, as such Court may determine.

5. This Law becomes effective 14 July 1945.

BY ORDER OF MILITARY GOVERNMENT

5. CONTROL COUNCIL ORDER NO. 4

Confiscation of Literature and Material of a Nazi and Militarist Nature

[*May 13, 1946*]

Bearing in mind the danger presented by the National Socialist doctrine, and in order to eradicate as soon as possible National Socialist, Fascist, Militarist and Anti-Democratic ideas in all forms in which they found expression throughout Germany,

The Control Council orders as follows:

1. All owners of circulating libraries, bookshops, bookstores and publishing houses to hand over to the Military Commandants or other Representatives of the Allied Authorities within two months of the date of publication of this order:

(*a*) All books, pamphlets, magazines, files of newspapers, albums, manuscripts, documents, maps, plans, song and music books, cinematographic films and magic lantern slides (including everything intended for children of all ages), the contents of which include Nazi propaganda, including Nazi "racial" theories and incitements to aggression, as well as those containing propaganda directed against the United Nations;

(*b*) Everything which contributes to military training and education or to the maintenance and development of war potential, including school text books and teaching material for all types of military educational institutions, as well as various instructions, directions, statutes, maps, diagrams, plans, etc. for all types of troops and branches of the services.

2. All former state and municipal libraries, directors of universities and heads or directors of other higher educational establishments and secondary schools or all institutions for scientific research presidents, presidents of academies, all scientific and technical societies and associations, and also directors of elementary and partial secondary schools and gymnasia, to remove in the same period from the libraries in their charge all Nazi and military literature enumerated in paragraph 1, and having collected it in complete order in specially allocated places, together with the relevant cards from the card index system of the library, to hand them over to the representatives of the Military Commandantura or other Allied Authorities.

3. The responsibility for the complete handing over within the prescribed time limit of the above-mentioned literature and material rests with the holders of such literature and materials as well as with Burgomasters and local authorities.

4. Control over the execution of the present order will be exercised by the military commandants or other representatives of the military authority of the Occupying Powers.

5. All publications and material mentioned in this order shall be placed at the disposal of the Military Zone Commanders for destruction.

Done at Berlin, the 13th day of May 1946.

L. Koeltz
Général de Corps d'Armée
B. H. Robertson
Lieutenant General
M. I. Dratvin
Lieutenant General
Lucius D. Clay
Lieutenant General

Amendment of Control Council Order No. 4, August 2, 1946

6. In the interests of research and scholarship, the Zone Commanders (in Berlin the Kommandatura) may preserve a limited number of copies of documents prohibited in Paragraph I. These documents will be kept in special accommodation where they may be used by German scholars and other German persons who have received permission to do so from the Allies, only under strict supervision by the Allied Control Authority.

The Zone Commanders will inform one another through Control Council channels concerning the quantity and titles of these documents, the place where they are preserved and the purposes for which they are being used.

6. CONTROL COUNCIL LAW NO. 8

Elimination and Prohibition of Military Training

[November 30, 1945]

The Control Council enacts as follows:

ARTICLE I

All activity of any organization, group of persons or individual which teaches directly or indirectly the theory, principles, technique or mechanics of war or prepares the participants for any war activity, is hereby prohibited and declared illegal.

ARTICLE II

All military educational institutions are declared illegal and will be closed immediately.

ARTICLE III

All war veterans' organisations and all organisations or groups which tend to perpetuate the German military tradition are prohibited and shall be immediately disbanded.

ARTICLE IV

The use by any German of military or Nazi uniforms, insignia flags, banners or tokens or of military or civil decorations, and the employment of distinctive Nazi or military salutes or greetings are prohibited; all other symbolic means of expressing the Nazi spirit are prohibited. No awards of civil or military decorations, honors or medals may be made or received.

ARTICLE V

Any evasion of the prohibitions of this law under the guise of sport or gymnastics is prohibited.

ARTICLE VI

Military and civil parades and military formations of any kind are prohibited. In exceptional cases and only in so far as expressly permitted by authority of the Military Command civil parades may be allowed.

ARTICLE VII

Any propaganda or agitation, whether conducted in writing or orally or by any other method, which is aimed at keeping alive, receiving or promoting the military or Nazi spirit and institutions, or to glorify war, is prohibited.

ARTICLE VIII

Any person violating any provision of this law shall be liable to criminal prosecution.

ARTICLE IX

This Law becomes effective 1 December, 1945.

NOTE

Temporarily the present law does not apply, in so far as wearing of uniform and discipline are concerned, to certain individuals formerly belonging to the German Armed Forces who are awaiting disbandment or are working for, or by order of, Allied Zone Commanders with the knowledge of the Control Council.

Done at Berlin 30 November 1945.

G. ZHUKOV
Marshal of the Soviet Union
JOSEPH T. MCNARNEY
General
BERNARD L. MONTGOMERY
Field Marshal
P. KOENIG
Général de Corps d'Armée

7. CONTROL COUNCIL LAW NO. 23

Prohibition of Military Construction in Germany

[April 10, 1946]

The Control Council enacts as follows:

ARTICLE I

The following are hereby prohibited and declared illegal in Germany:

a. Preparation, possession or making use of plans or models of any military installations;

b. Planning, designing, fabrication, erection or construction of any military installations;

c. Planning, designing or erection of any type of civil construction, where any details in the plan, design, erection or construction provide for their possible utilization for war purposes.

ARTICLE II

In this Law the term "military installation" means any construction intended for war purposes on land or sea or in the air, as well as any other construction intended for the maintenance of armed forces, including, but not being limited to, the following: minefields; gun implacements; launching sites for rockets; including anti-aircraft, and other anti-aircraft installations; pillboxes, anti-tank obstacles; command posts, magazines and other fortification works; military and public air raid shelters; any form of shelter for submarine, surface or air facilities of warfare; airfields; naval bases; military ports, arsenals; seaplane bases; telecommunications and radio stations (other than those authorized for the needs of the civilian population); war material depots; strategic bulk petroleum, oil and lubricant installations; military research and proving ground stations; firing and other ranges; underground factories and underground depots; workshops and depots protected against air attack and artillery.

ARTICLE III

Any organization, group of persons or individual violating any of the provisions of this Law shall be subject to criminal prosecution before a Military Government court.

ARTICLE IV

1. Any individual violating any of the provisions of this Law shall be subject to one of the following penalties, with or without confiscation of property, in whole or in part:

a. Imprisonment (*Gefängnis*) for a term of not less than one year and not more than five years; or
b. Hard labor (*Zuchthaus*) for a term of not less than one year and not more than fifteen years; or
c. In serious cases hard labor for life, or death.

2. The property of any organization violating this Law is subject to confiscation, and the organization itself is subject to dissolution, by order of the court.

ARTICLE V

The provisions of this Law do not extend to the construction or retention of any installation necessary for the purpose of maintenance, training and welfare of the occupation forces. Such installations or constructions shall be destroyed or removed prior to or at the time of the termination of the occupation, if but for this Article they would come within the prohibition of Article I.

ARTICLE VI

This Law shall come into force on the date of its publication.

Done at Berlin the 10th day of April 1946.

JOSEPH T. MCNARNEY
General
MONTGOMERY OF ALAMEIN
Field Marshal
P. KOENIG
Général de Corps d'Armée
V. SOKOLOVSKY
Army General

8. CONTROL COUNCIL LAW NO. 25

Control of Scientific Research

[April 29, 1946]

In order to prohibit for military purposes scientific research and its practical application, to control them in other fields in which they may create a war potential, and to direct them along peaceful lines, the Control Council enacts as follows:

ARTICLE I

All technical military organizations are hereby dissolved and prohibited. Equipment and buildings of a purely military character shall be destroyed or removed. Equipment and buildings having a possible peace time application may be utilized for that purpose with the permission of Military Government.

ARTICLE II

1. Applied scientific research shall be prohibited on:

a. Any matter of a wholly or primarily military nature; or
b. Any of the matters specified in Schedule "A" hereto.

2. Applied scientific research on any of the matters specified in Schedule "B" hereto shall be prohibited unless the written permission of the Commander of the Zone in which the research establishment is located is first obtained.

ARTICLE III

1. Fundamental scientific research of a wholly or primarily military nature shall be prohibited.

2. Fundamental scientific research which is not of a wholly or primarily military nature shall be prohibited only insofar as it requires for its conduct installations which, on account of their size or their special or peculiar construction, would be valuable for any applied scientific research of a wholly or primarily military nature.

ARTICLE IV

1. Scientific research not prohibited by Article II or III of this Law may be conducted only by a research establishment authorized by the appropriate Zone Commander.

2. Subject to the provisions of this Law, the Zone Commander may take all steps, including inspection, and issue all regulations, which he may consider necessary to ensure effective control of the research establishment.

ARTICLE V

1. Each authorized research establishment shall submit to the appropriate Zone Commander the following reports:

a. Technical reports every four months showing details of all its activities, with sufficient data to enable competent persons to verify the correctness of the results reported, together with all publications of the establishment and a complete report listing the title of each problem studied, its scope, possible applied uses, sources of funds, amount of fund expended, and the person in charge, and any other matter required from time to time by the Zone Commander.

b. Annual reports in as non-technical language as possible covering all work done in the year.

c. A complete statement of the plant, apparatus and equipment existing in the research establishment, as may be required by the Zone Commander.

d. A complete statement of accounts upon the demand of the Zone Commander.

2. A research establishment shall file with the Zone Commander a written notification, including a description of the proposed work and its potentialities, before instituting permitted research of the following types:

a. Fundamental scientific research on matters specified in Schedule "A"; or

b. Applied scientific research on matters not specified in Schedule "A" or "D".

ARTICLE VI

1. All research and technical personnel employed in a research establishment shall be registered with the appropriate Zone Commander in accordance with regulations issued by him.

2. Senior officials or scientists who were members of the National Socialist German Workers' Party (NSDAP) or members of other Nazi organizations with more than nominal participation in its activities shall be removed and their replacement effected only by persons with suitable political records. Scientific work in general or on the development of weapons in the past shall not, in itself, be regarded as ground for dismissal or other punishment.

ARTICLE VII

In this Law

a. "Applied scientific research" means:

(i) research work directed to the conversion to industrial use of any old or new scientific knowledge or principle; or

(ii) the conversion to pilot plant or engineering development stage of any results of fundamental scientific research; or

(iii) research work directed to the improvement of a known industrial process of manufacture or engineering or to the introduction of a new process of production of any manufactured article; or

(iv) field and other practical trials of new devices and the testing of preproduction models.

b. "Fundamental scientific research" means research of an exploratory character in any field directed towards the discovery of new knowledge, theories, principles or laws of nature, or of new compounds or materials.

c. "Research establishments" includes any research unit, and any university, Technische Hochschule, institute, industrial company and other agency containing a research unit.

ARTICLE VIII

Without prejudice to the liability of any other person under this Law, the responsibility for compliance therewith shall rest upon any person in charge of any unit thereof.

ARTICLE IX

Any person, organization, or group of persons violating any provision of this Law shall be liable to criminal prosecution in a Military Government Court.

ARTICLE X

1. Any person violating any provision of this Law shall be subject to one of the following penalties, with or without confiscation of property, in whole or in part:

a. Imprisonment (*Gefängnis*) for a term not exceeding five years;

b. Hard labor (*Zuchthaus*) for a term of not less than one year and not more than fifteen years;

c. In serious cases, hard labor for life, or death.

2. Any organization or research establishment violating any provision of this Law may be dissolved and its property confiscated, by order of the court.

ARTICLE XI

This Law shall come into force on the date of its publication.

Done at Berlin the 29th day of April 1946.

Joseph T. McNarney
General
Montgomery of Alamein
Field Marshal
P. Koenig
Général de Corps d'Armée
V. Sokolovsky
Army General

9. CONTROL COUNCIL DIRECTIVE NO. 18

Disbandment and Dissolution of the German Armed Forces

[November 12, 1945]

The Control Council directs as follows:

1. Members of the former Wehrmacht and affiliated para-military forces, including officials and prisoners of war, will be demobilised within the limitations imposed by consideration of:

a) The demands of Allied Nations for German labour.
b) The fact that War Criminals, Suspected War Criminals and Security Suspects are subject to detention until their guilt is proved.
c) The necessity for detaining Potentially Dangerous Officers of the former Wehrmacht and para-military organisations.

2. Disbandment of the German Prisoners of War will be methodically organised and controlled. Each individual will be formally discharged from Camps and issued with a Discharge Certificate. The form to be used as Discharge Certificate will be circulated to Zone Commanders.

3. Personnel of the former German Wehrmacht will be discharged into that zone of Germany in which their previous home was situated, in accordance with the provisions of the attached Appendix "A": Regulations and Principles relating to Interzone Transfers of German PWs.

4. Former German Wehrmacht personnel whose previous home was in Berlin may be discharged in Berlin by arrangement between the Zone Commander who holds them and the Kommandatura of Berlin. No other discharges into Berlin Area will take place.

5. With respect to those held in Germany, non-Germans, except Austrians, will be repatriated as rapidly as practicable. This repatriation will not be deferred because of employment on Allied work projects. No formal discharge should be required except in the case of Austrians whose transfer to Austria will be effected in accordance with current arrangements with National elements of the Allied Control Council for Austria.

6. The following provisions will apply to Prisoners of War held outside Germany:

a) Prisoners of War held outside Germany will eventually be returned to the Zone of Germany occupied by the Power under whose control they are held, in order to be later despatched to the Zone of their former domicile.
b) This movement will be carried out at the convenience of the

Power concerned provided that no inter-Allied agreement with respect to reparations labour is thereby contravened.

c) The movement of Prisoners of War held outside Germany by Allied Nations, other than the four Occupying Powers, will be subject to negotiations between the National Government concerned and the Allied Control Council. The Control Council will obtain from the respective National Governments statistical data on Prisoners of War.

d) Upon return to Germany, Prisoners of War will be demobilised in accordance with standard demobilisation procedure.

e) Arrangements for the return to their respective countries of non-German Prisoners of War held outside Germany may be made by the Governments of the Allied Powers directly with the Government whose nationals are concerned.

7. All ex-Wehrmacht personnel who have been demobilised to Germany must, on arrival at their place of residence, register within 48 hours with their local civil authorities. Those who fail to register within the appropriate time will be punished.

8. Stragglers and deserters from the former German forces in the several zones will be directed by each Zone Commander to report at a convenient time to appropriate assembly points, in order that they may be issued with documents, and disposed of in accordance with this policy. Any such persons not reporting will be apprehended and punished.

9. Special efforts will be made to preserve from destruction and take under Allied control records, books, plans, documents, papers, files and other information and data which belonged to, or had been controlled by the former Wehrmacht and affiliated para-military organisations.

Such information and data will be utilized as desirable during demobilisation and disposed of under the direction of the Control Council in such a way as to make them permanently unavailable to the German Government.

10. All particulars required by the Control Council for demobilisation purposes will be specified to the Zone Commanders.

Done at Berlin, 12 November 1945.

V. SOKOLOVSKY
Army General
LUCIUS D. CLAY
Lieutenant General
B. H. ROBERTSON
Lieutenant General
L. KOELTZ
Général de Corps d'Armée

10. CONTROL COUNCIL DIRECTIVE NO. 23

Limitation and Demilitarization of Sport in Germany

[December 17, 1945]

The Control Council directs:

1. To prohibit all activities of and to dissolve by 1 January 1946 all sport and military or para-military athletic organizations (clubs, associations, institutions and other organizations) which existed in Germany prior to its capitulation.

2. To prohibit the conduct and development among the German population of all military athletic organizations. This prohibition shall apply particularly to organizations engaged in Aviation, Parachuting, Gliding, Fencing, Military or Para-military drill or display, shooting with firearms.

3. To prohibit instruction in or the conduct of athletic activities of military or assimilated military nature in German educational institutions, in public or political organizations, in companies and factories and in all other organizations.

4. a) To permit the functioning in German territory of non-military sport organizations of a local character.

   b) These organizations shall not be established above the Kreis level and shall not receive any supervision, instructions or funds from any public or private body organized above Kreis level except with the permission of Zone Commanders, which will be strictly limited to those sports that could not possibly have any military significance.

   c) Every newly established sport organization of a local character must have permission from the local Allied occupation authority, and its activities will be subject to supervision of this authority. Physical education of the youth will concentrate on elements of health, hygiene and recreation which will exclude from this type of sport elements of assimilated military character.

5. The execution of the provisions of the present directive will be entered by the Zone Commanders in Germany.

Done at Berlin, 17 December 1945.

Lucius D. Clay
Lieutenant General
B. H. Robertson
Lieutenant General
L. Koeltz
Général de Corps d'Armée
V. Sokolovsky
Army General

11. DRAFT TREATY

Draft Treaty on the Disarmament and Demilitarization of Germany Submitted by Secretary of State Byrnes at Council of Foreign Ministers at Paris, April 29, 1946

Press Release 292

PREAMBLE

On June 5, 1945, the Governments of the United States, the Union of Soviet Socialist Republics, the United Kingdom, and the French Republic declared their intention to effect the total disarmament and demobilization of Germany. In substantial measure this intention has already been fulfilled. Nothing shall prevent or delay the completion of the process. It remains to ensure that the total disarmament and demilitarization of Germany will be enforced as long as the peace and security of the world may require. Only this assurance will permit the nations of Europe and the world to return single-mindedly to the habits of peace. To achieve this objective, the Governments of the United States, the Union of Soviet Socialist Republics, the United Kingdom, and the French Republic agree to engage in the common undertaking defined in this treaty.

ARTICLE I.

The high contracting parties agree that they shall take steps jointly to ensure that:

(A) All German armed forces, including land, air, anti-aircraft and naval forces, all para-military forces, such as the SS, the SA and the Gestapo, and all organizations auxiliary to the foregoing shall be and shall remain completely disarmed, demobilized and disbanded.

(B) The German general staff and the staffs of any para-military organizations shall be and shall remain disbanded.

(C) No German military or para-military organization in any form or guise shall be permitted in Germany.

(D) The manufacture, production, or importation of military equipment in Germany shall be prevented. In particular, the high contracting parties shall prevent the manufacture, production, or importation of:

(1) All arms, ammunition, explosives, military equipment, military stores and supplies and other implements of war of all kinds;

(2) All fissionable materials for any purpose, except under conditions approved by the high contracting parties;

(3) All naval vessels of all classes, both surface and submarine, and auxiliary naval-craft;

(4) All aircraft of all kinds, aviation equipment and devices, and equipment for anti-aircraft defense.

(E) The establishment, utilization or operation for military purposes of any of the following shall be prevented:

(1) All military structures, installations and establishments, including but not limited to military air fields, seaplane bases and naval bases, military and naval storage depots, permanent and temporary land and coast fortifications, fortresses and other fortified areas;

(2) All factories, plants, shops, research institutions, laboratories, testing stations, technical data, patents, plans, drawings and inventions, designed or intended to produce or to facilitate the production of items listed in paragraph (D) above.

(F) Under conditions which may be established by the high contracting parties, the demilitarization and disarmament required by this article shall be subject to the following exceptions and to no others:

(1) The formation and employment of such detachments of German civil police, and their equipment with such types and quantities of imported small arms as may be essential to the maintenance of public security; and

(2) The importation of minimum quantities of those items listed in paragraph (D) (1) above, such as explosives or ingredients of explosives, which may be essential for purposes of construction, mining, agriculture or for other peaceful purposes.

ARTICLE II.

To implement the disarmament and demilitarization provisions set forth in Article I, the high contracting parties agree that they shall make provision for a system of quadripartite inspection, which shall become operative upon the termination of the Allied occupation of Germany. This system of inspection shall be conducted through a Commission of Control to be established by the high contracting parties on a quadripartite basis. The Commission of Control, through its officers and agents, shall conduct, in any and all parts of German territory, such inspections, inquiries and investigations as it may deem necessary to determine whether the disarmament and demilitarization provisions set forth in Article I are being observed.

ARTICLE III.

The high contracting parties agree that for the duration of the period of Allied occupation of Germany, they shall, through the

Allied Control Council and in their respective zones, enforce strictly the disarmament and demilitarization provisions set forth in Article I. They agree further that the express acceptance by Germany of the provisions of Articles I and II shall be an essential condition to the termination of Allied occupation of German territory.

ARTICLE IV.

The Commission of Control provided for in Article II shall keep the high contracting parties and the Security Council of the United Nations informed of the results of the inspections, inquiries and investigations authorized by that article. The Commission of Control shall submit a report to the high contracting parties whenever in the opinion of a majority of the members of the Commission, it has reason to believe that a violation of the disarmament and demilitarization provisions of Article I has occurred or is about to occur. In conjunction with such report the Commission shall submit a recommendation for action on the part of the high contracting parties which appears appropriate to a majority of the members of the Commission. Upon receipt of such report and recommendations, the high contracting parties will, by common agreement, take such prompt action—including action by air, sea or land forces—as may be necessary to assure the immediate cessation or prevention of such violation or attempted violation. The high contracting parties shall immediately report to the Security Council of the United Nations the action taken or to be taken.

The high contracting parties agree that, within six months of the effective date of this treaty, they shall consult for the purpose of negotiating special quadripartite agreements which shall provide in the greatest practicable detail for inspection, inquiry and investigation by the Commission of Control. For the numbers and types of forces which each party shall make available for purposes of this treaty, for their degree of readiness and general location, and for the nature of the facilities and assistance which each shall provide. Such special quadripartite agreements shall be subject to ratification by the high contracting parties in accordance with their respective constitutional processes.

ARTICLE V.

This treaty shall be ratified by the high contracting parties in accordance with their respective constitutional processes. The ratifications shall be deposited with the government of (blank), which shall notify all the high contracting parties of each deposit.

This treaty shall come into force upon the deposit of ratifications by each of the high contracting parties. This treaty shall remain in force for a period of 25 years from its effective date. The high contracting parties agree to consult six months before the date of expiration of this treaty for the purpose of determining whether the interests of international peace and security require its renewal, with or without modification, or whether the German people have so far progressed in the reconstruction of their life on a democratic and peaceful basis that the continued imposition of the controls defined herein is no longer necessary.

12. RESTATEMENT OF U.S. POLICY ON GERMANY

Address by the Secretary of State, Delivered in Stuttgart, Germany, September 6, 1946

Excerpts

. . . .

In agreeing at Potsdam that Germany should be disarmed and demilitarized and in proposing that the four major powers should by treaty jointly undertake to see that Germany is kept disarmed and demilitarized for a generation, the United States was not unmindful of the responsibility resting upon it and its major Allies to maintain and enforce peace under the law.

Freedom from militarism will give the German people the opportunity, if they will but seize it, to apply their great energies and abilities to the works of peace. It will give them the opportunity to show themselves worthy of the respect and friendship of peace-loving nations, and in time, to take an honorable place among the members of the United Nations.

. . . .

But of course the question for us will be: What force is needed to make certain that Germany does not rearm as it did after the first World War? Our proposal for a treaty with the major powers to enforce for 25 or even 40 years the demilitarization plan finally agreed upon in the peace settlement would have made possible a smaller army of occupation. For enforcement we could rely more upon a force of trained inspectors and less upon infantry.

For instance, if an automobile factory, in violation of the treaty, converted its machinery to the production of weapons of war, inspectors would report it to the Allied Control Council. They would call upon the German Government to stop the production and punish the offender. If the German Government failed to comply then the Allied nations would take steps to enforce compliance by the German Government. Unfortunately our proposal for a treaty was not agreed to.

Security forces will probably have to remain in Germany for a long period. I want no misunderstanding. We will not shirk our duty. We are not withdrawing. We are staying here. As long as there is an occupation army in Germany, American armed forces will be part of that occupation army.

. . . .

While the people of the Ruhr were the last to succumb to Nazism, without the resources of the Ruhr Nazism could never have threatened the world. Never again must those resources be used for destructive purposes. They must be used to rebuild a free, peaceful Germany and a free, peaceful Europe.

The United States will favor such control over the whole of Germany, including the Ruhr and the Rhineland, as may be necessary for security purposes. It will help to enforce those controls. But it will not favor any controls that would subject the Ruhr and the Rhineland to political domination or manipulation of outside powers.

. . . .

Appendix D

DENAZIFICATION

Appendix D

DENAZIFICATION

1. JCS 1067

Directive to Commander in Chief of United States Forces of Occupation Regarding the Military Government of Germany

Press Release 769 *[October 17, 1945]*
CS 1067 (April 1945) revised
Excerpt

. . . .

6. Denazification:

a. A Proclamation dissolving the Nazi Party, its formations, affiliated associations and supervised organizations, and all Nazi public institutions which were set up as instruments of Party domination, and prohibiting their revival in any form, should be promulgated by the Control Council. You will assure the prompt effectuation of that policy in your zone and will make every effort to prevent the reconstitution of any such organization in underground, disguised or secret form. Responsibility for continuing desirable non-political social services of dissolved Party organizations may be transferred by the Control Council to appropriate central agencies and by you to appropriate local agencies.

b. The laws purporting to establish the political structure of National Socialism and the basis of the Hitler regime and all laws, decrees and regulations which establish discriminations on grounds of race, nationality, creed or political opinions should be abrogated by the Control Council. You will render them inoperative in your zone.

c. All members of the Nazi party who have been more than nominal participants in its activities, all active supporters of Nazism or militarism and all other persons hostile to Allied purposes will be removed and excluded from public office and from positions of importance in quasi-public and private enterprises such as (1) civic, economic and labor organizations, (2) corporations and other organizations in which the German government or subdivisions have a major financial interest, (3) industry, commerce, agriculture, and finance, (4) education, and (5) the press, publishing houses and other agencies disseminating news and propaganda. Persons are to be treated as more than nominal participants in Party activities and as active supporters of Nazism or militarism when they have (1) held office or otherwise been active at any level from local to national in the party and its subordinate organizations, or in organizations which further militaristic doctrines, (2) authorized or participated affirmatively in any Nazi crimes, racial persecutions or discriminations, (3) been avowed believers in Nazism or racial and militaristic creeds, or (4) voluntarily given substantial moral or material support or political assistance of any kind to the Nazi party or Nazi officials and leaders. No such persons shall be retained in any of the categories of employment listed above because of administrative necessity, convenience or expediency.

d. Property, real and personal, owned or controlled by the Nazi party, its formations, affiliated associations and supervised organizations, and by all persons subject to arrest under the provisions of paragraph 8, and found within your zone, will be taken under your control pending a decision by the Control Council or higher authority as to its eventual disposition.

e. All archives, monuments and museums of Nazi inception, or which are devoted to the perpetuation of German militarism, will be taken under your control and their properties held pending decision as to their disposition by the Control Council.

f. You will make special efforts to preserve from destruction and take under your control records, plans, books, documents, papers, files, and scientific, industrial and other information and data belonging to or controlled by the following:

(1) The Central German Government and its subdivisions, German military organizations, organizations engaged in military research, and such other governmental agencies as may be deemed advisable;

(2) The Nazi Party, its formations, affiliated associations and supervised organizations;

(3) All police organizations, including security and political police;

(4) Important economic organizations and industrial establishments including those controlled by the Nazi Party or its personnel;

(5) Institutes and special bureaus devoting themselves to racial, political, militaristic or similar research or propaganda.

2. POTSDAM AGREEMENT

Excerpts *Released August 2, 1945*

. . . .

(III A) 3. The purposes of the occupation of Germany by which the Control Council shall be guided are:

. . . .

(iii) To destroy the National Socialist Party and its affiliated and supervised organizations, to dissolve all Nazi institutions, to ensure that they are not revived in any form, and to prevent all Nazi and militarist activity or propaganda.

(iv) To prepare for the eventual reconstruction of German political life on a democratic basis and for eventual peaceful cooperation in international life by Germany.

4. All Nazi laws which provided the basis of the Hitler regime or established discrimination on grounds of race, creed, or political opinion shall be abolished. No such discriminations, whether legal, administrative or otherwise, shall be tolerated.

5. War criminals and those who have participated in planning or carrying out Nazi enterprises involving or resulting in atrocities or war crimes shall be arrested and brought to judgment. Nazi leaders, influential Nazi supporters and high officials of Nazi organizations and institutions and any other persons dangerous to the occupation or its objectives shall be arrested and interned.

6. All members of the Nazi party who have been more than nominal participants in its activities and all other persons hostile to allied purposes shall be removed from public and semi-public office, and from positions of responsibility in important private undertakings. Such persons shall be replaced by persons who, by their political and moral qualities, are deemed capable of assisting in developing genuine democratic institutions in Germany.

3. CONTROL COUNCIL DIRECTIVE NO. 24

Removal from Office and from Positions of Responsibility of Nazis and of Persons Hostile to Allied Purposes

Excerpt [*January 12, 1946*]

The Control Council directs as follows:

1. Object

The Tripartite Conference of Berlin included among the purposes of the occupation of Germany: the removal from public and semi-public office and from positions of responsibility in important private undertakings of all members of the Nazi Party who have been more than nominal participants in its activities, and all other persons hostile to Allied purposes. Such persons shall be replaced by persons who, by their political and moral qualities, are deemed capable of assisting in developing genuine democratic institutions in Germany.

2. Definitions

a) Persons are to be treated as "more than nominal participants in Party Activities" and as "hostile to Allied purposes" when they have:

I. held office and otherwise been active at any level from local to national in the Party and its subordinate organizations or in organizations which further militaristic doctrines.
II. authorized or participated affirmatively in any Nazi crimes, racial persecutions or discriminations.
III. been avowed believers in Nazism or racial and militaristic creeds, or
IV. voluntarily given substantial moral or material support or political assistance of any kind to the Nazi Party or Nazi officials and leaders.

b) The term "public office" shall include all officials, civil servants or employees in governmental and municipal service, and members of governing bodies of political parties, trade unions and other public organizations excepting employment of such minor importance that the incumbent or appointee is not placed in a position to endanger Allied interests or commit acts hostile to Allied principles and purposes by reason of this employment. The effect of this definition is to require as a minimum the investigation of all persons in public employment above that of ordinary labour. By ordinary labour is meant work or service, whether skilled, unskilled, or clerical, in an inferior position in which the worker does not act in any supervisory, managerial or organizing capacity whatsoever, or participate in hiring or discharging others, or in setting employment or other policies.

c) The term "semi-public office" and "positions of responsibility in important private undertakings" shall include policy-making or executive positions and personnel officers in:

I. civic, economic and labour organizations,
II. corporations and other organizations in which the German Government, or its subdivisions, had a major financial interest.
III. important industrial, commercial, agricultural and financial institutions, and
IV. the Press, publishing houses and other agencies disseminating news and propaganda.

In the field of private and parochial education, the term shall include teachers as well as policy-making or executive officials in such institutions.

d) The terms "important industrial, commercial, agricultural and financial institutions" shall include all such institutions directly supervised, utilized or controlled by Military Government and all industrial, mining, public utility, and commercial enterprises, combines and cartels which, by virtue of their capitalization, number of employees, type of products produced or services rendered, are important factors in the German economy or in the economy of the region or community in which they operate. It is most important to carry out the denazification of industry with the utmost vigour, and the smallness of the enterprise shall be no reason for failure to denazify.

In the discretion of occupational authorities, the removal and exclusion of Nazis and militarists from less important industrial, commercial, agricultural and financial establishments, business, retail shops, occupations, professional practices and licensed trade is authorized.

e) The term "removal" as used herein shall mean to discharge the person forthwith and summarily and to terminate his influence and direct or indirect participation in the organization or concern with which he was associated. In the case of a profession or trade, the term "removal" shall mean to disqualify and restrict the individual from practising the profession or trade in other than a private capacity in which he does not act in any supervisory, managerial, or organizing capacity whatsoever or participate in hiring or discharging others or in setting employment or other policies.

f) The names of persons removed and the reasons for their removal will be passed at the appropriate level to Property Control Officers (or corresponding Military Government authorities), who will take action in accordance with pertinent Military Government laws and orders, to effect the immediate blocking and control of their property.

Persons removed from public office will not be entitled to the benefit of any pension or other civil service rights.

3. *Scope*

The term "removal" in the passage of the Potsdam Declaration here quoted is to be understood to include "exclusion."

The standards to be applied and instructions for action are, therefore, to be considered to refer to the exclusion of Nazis and, of other persons hostile to Allied purposes from office and from positions of responsibility no less than to their removal from such office and positions.

4. *Responsibility*

The removal and exclusion of Nazis and of other persons hostile to Allied purposes is the general responsibility of the Division or Branch employing the persons concerned or considering them for employment, acting on the advice and with the assistance of Public Safety. The view of Public Safety, recorded after consultation with C. I., shall be decisive and shall override considerations of administrative expediency, convenience or even necessity.

5. *Review of cases*

If it is felt that a mistake has been made in the application of this directive by the removal or exclusion from office of a particular individual, review of his case may be requested by the Branch of Division concerned, and the latter may submit the case for further consideration to Military Government, acting in consultation with Public Safety and C. I., at Zonal H. Q.; in the case of Greater Berlin Area, to the Kommandatura; and in the case of the staffs and employees of Central Agencies, to the Control Council.

When there is positive evidence, supported by investigation, that an individual is not more than a nominal Nazi and is not a militarist and is not hostile to the Allied cause, he may be retained in office in spite of the mandatory clauses contained in this directive.

6. *Discretionary removal and exclusion*

Between those whose removal and exclusion from office and positions of responsibility is laid down as compulsory in paragraph 10 below and those who have not participated at all in any Nazi activity, there is a mass of Germans, the extent and quality of whose association and participation, as well as their past and present motives, are in doubt and require careful investigation.

Discretion to employ such people or to leave them in occupation of their office or position of importance is left to Divisions and Branches acting under the advice of Public Safety, to be recorded after consultation with C. I. The retention of persons in discretionary categories shall be based only on the non-availability of other suitable personnel and will continue only until other suitable personnel will become available. Points for guidance in assessing the respective reliability of such discretionary cases are given in para 11 below.

7. *Further review of cases retained or newly appointed*

All retentions of Germans in office or in positions of importance as well as new appointments shall be regarded as provisional only and subject to future review.

This particularly applies to discretionary cases retained in employment. These shall be subject to further scrutiny once the original vetting of serving officials and candidates for new employment has been completed, both in the light of such new records as may have become available and of the individual's attitude and conduct since his retention or appointment.

Even officials whom Military Government may have newly appointed because their freedom from Nazi-ideology or hostility to the Nazi regime had been established cannot therefore be regarded as necessarily in sympathy with a continued Allied occupation or its purpose.

Responsibility for such further inquiry rests upon all Divisions and Branches as well as upon Public Safety and C. I.

8. a) The terms of this directive are subject to immediate implementation so far as any Central German Administration is concerned.

b) In the Zones, in view of the urgent necessity for producing rapidly and in maximum quantities such commodities as food, fuel and building material which are required, not only for German economy, but also for that of other European countries, Zone commanders may postpone the immediate removal of an individual providing:

I. the temporary retention of the individual is, in the opinion of the Zone Commander, essential, and
II. that the individual was not an important member of the Nazi Party and played no more than a nominal part in its activities and is not hostile to the Allied purposes, and that
III. the individual is removed as soon as practical.

(c) Individuals retained under sub para b) above will only be so retained for their specialist knowledge. In no case will an individual be retained who has been appointed to the position he holds purely for political (Nazi Party) reasons.

9. Persons removed from public and semi-public office, or from the governing bodies of political parties, trade unions and other public organizations, or from positions of responsibility in important private undertakings, as defined in the provisions of para 2 of this directive, pursuant to the policies enumerated in this directive, will not be employed in any other Zone of Occupation in any such positions as defined in the provisions of para 2 of this directive, except in cases of revision requested under para 5 above.

General and statistical information on denazification in the various zones shall be presented to the Control Council semi-annually, the first report to cover the period to 1 July 1946. These reports shall be submitted within 30 days following semi-annual periods.

. . . .

4. DIRECTIVE, OMGUS

Law for Liberation from National Socialism and Militarism

Excerpt *[April 29, 1946]*

On 5 March 1946, a uniform "Law for Liberation from National Socialism and Militarism" was promulgated, with the approval of Military Government, by the Minister Presidents of the three Laender in the U.S. Zone. The purpose of this directive is to explain the objectives of the law, to describe how it will be administered by the German authorities, and to define the functions and responsibilities of Military Government in relation to the Law.

Objectives of the Law

a. The promulgation of this law marks the entry into a new phase of denazification. Prior to the enactment of the law, denazification consisted of removal and exclusion of Nazis and militarists from public and private employment above ordinary labor, blocking their property, and interning those within the automatic arrest categories. This was an interim policy, designed for the initial period of occupation. This phase of denazification nears completion. German agencies, purged of Nazis, are now functioning at all levels.

b. From the long-range point of view, denazification is a means for assisting in the transfer of authority from those who usurped and abused it under the Nazi regime to others who will establish a free, peaceful and democratic society. Every person who exercised leadership and power in support of the Nazi movement must be deprived of influence and authority, whether or not he was formally affiliated with the Party or any other Nazi organizations. This is an essential prerequisite to the building of a democratic Germany. To accomplish this objective, the Germans must participate actively in denazifying their society, and substantial elements in Germany must be convinced that the denazification program is just and for the ultimate benefit of Germany and the world.

c. The Law for Liberation from National Socialism and Militarism has four main objectives:

1. to provide just and effective procedures for judging every individual according to the degree of his responsibility for the wrongs committed by the Nazi regime;
2. to impose upon those found responsible definite sanctions designed to eliminate their influence in the community;
3. to provide opportunities for rehabilitation through probation for lesser offenders; and
4. to remove disqualifications from followers (nominal Nazis) and exonerated persons.

. . . .

5. LAW FOR LIBERATION FROM NATIONAL SOCIALISM AND MILITARISM (U.S. ZONE)

Excerpt *[March 5, 1946]*

Principles

ARTICLE 1

1. To liberate our people from National Socialism and Militarism and to secure a lasting base for German democratic national life in peace with the world, all those who have actively supported the National Socialist tyranny, or are guilty of having violated the principles of justice and humanity, or of having selfishly exploited the conditions thus created, shall be excluded from influence in public, economic and cultural life and shall be bound to make reparations.

2. Everyone who is responsible shall be called to account. At the same time he shall be afforded opportunity to vindicate himself.

ARTICLE 2

1. The individual shall be judged by a just consideration of his individual responsibility and his actual conduct, taken as a whole. In accordance therewith there shall be determined in just gradation the extent of sanctions and of exclusion from participation in the public, economic and cultural life of the people, in order to eliminate permanently the influence of National Socialistic and Militaristic conduct and ideas.

2. External criteria, such as membership of the NSDAP, any of its formations or other organizations, shall not be decisive by themselves alone for the degree of responsibility under this law. They may be taken as important evidence as to a person's conduct as a whole, but may be overcome, wholly or partly, by evidence to the contrary. Conversely, non-membership by itself is not decisive to absolve one of responsibility.

Registration Procedure

ARTICLE 3

1. In order to seek out all persons responsible and to carry out this law, a registration procedure is hereby established.

2. Every German above the age of 18 will fill out and submit a registration form.

3. Detailed regulations will be issued by the Minister for Political Liberation.

Groups of Persons Responsible

ARTICLE 4

In order to make a just determination of responsibility and to provide for imposition of sanctions, the following groups of persons shall be formed:

(1) Major Offenders,
(2) Offenders (activists, militarists and profiteers),
(3) Lesser Offenders (probationers),
(4) Followers,
(5) Persons exonerated.

• • • • • • •

6. CONTROL COUNCIL LAW NO. 2

Providing for the Termination and Liquidation of the Nazi Organisations

[*October 10, 1945*]

The Control Council enacts as follows:

ARTICLE I

1. The National Socialist German Labour Party, its formations, affiliated associations and supervised agencies, including paramilitary organisations and all other Nazi institutions established as instruments of party domination are hereby abolished and declared illegal.

2. The Nazi organisations enumerated in the attached Appendix, or which may be added, are expressly abolished.

3. The reforming of any of the organisations named herein, whether under the same or different name is forbidden.

ARTICLE II

All real estates, equipments, funds, accounts, records and other property of the organisations abolished by this law are confiscated. Confiscation is carried out by Military Commands; general directives concerning the distribution of the confiscated property are given by the Control Council.

ARTICLE III

Until such time as the property mentioned is actually placed under the control of the Military Commands all officers and other personnel, including administrative officials and others accountable for such property, are held personally responsible for taking any action necessary to preserve intact all such property and for complying with the orders of the Military Commands regarding such property.

ARTICLE IV

Any person violating any provision of this law shall be liable to criminal prosecution.

Done at Berlin, 10 October 1945

P. KOENIG
Général de Corps d'Armée
V. SOKOLOVSKY
Army General
DWIGHT D. EISENHOWER
General
B. H. ROBERTSON
Lieutenant General
for F. M. MONTGOMERY

APPENDIX

1. Nationalsozialistische Deutsche Arbeiterpartei
2. Partei-Kanzlei
3. Kanzlei des Führers der NSDAP
4. Auslandsorganisation
5. Volksbund für das Deutschtum im Ausland
6. Volksdeutsche Mittelstelle
7. Parteiamtliche Prüfungskommission zum Schutze des NS-Schrifttums
8. Reichsorganisationsleiter der NSDAP
9. Reichsschatzmeister der NSDAP
10. Beauftragter des Führers für die Überwachung der gesamten geistigen und weltanschaulichen Schulung und Erziehung der NSDAP
11. Reichspropagandaleiter der NSDAP
12. Reichsleiter für die Presse und Zentralverlag der NSDAP (Eher Verlag)
13. Reichspressechef der NSDAP
14. Reichsamt für das Landvolk
15. Hauptamt für Volksgesundheit
16. Hauptamt für Erzieher
17. Hauptamt für Kommunalpolitik
18. Hauptamt für Beamte
19. Beauftragter der NSDAP für alle Volkstumsfragen
20. Rassenpolitisches Amt der NSDAP
21. Amt für Sippenforschung
22. Kolonialpolitisches Amt der NSDAP
23. Aussenpolitisches Amt der NSDAP
24. Reichstagsfraktion der NSDAP
25. Reichsfrauenführung
26. NSD-Ärztebund
27. Hauptamt für Technik
28. NS-Bund Deutscher Technik
29. NS-Lehrerbund
30. Reichsbund der Deutschen Beamten
31. Reichskolonialbund

32. NS-Frauenschaft
33. NS-Reichsbund Deutscher Schwestern
34. Deutsches Frauenwerk
35. Reichsstudentenführung
36. NSD-Studentenbund
37. Deutsche Studentenschaft
38. NSD-Dozentenbund
39. NS-Rechtswahrerbund
40. NS-Altherrenbund der Deutschen Studenten
41. Reichsbund Deutsche Familie
42. Deutsche Arbeitsfront
43. NS-Reichsbund für Leibesübungen
44. NS-Reichskriegerbund
45. Reichskulturkammer
46. Deutscher Gemeindetag
47. Geheime Staatspolizei
48. Deutsche Jägerschaft
49. Sachverständigenbeirat für Bevölkerungs- und Rassenpolitik
50. Reichsausschuss zum Schutze des Deutschen Blutes
51. Winterhilfswerk
52. Hauptamt für Kriegsopfer
53. NSKOV (NS-Kriegsopferversorgung)
54. SA (Sturmabteilungen), including the SA-Wehrmannschaften
55. SS (Schutzstaffeln), including all Waffen-SS, the SD (Sicherheitsdienst) and all offices combining command over the police and SS
56. NSKK (NS-Kraftfahrerkorps)
57. NSFK (NS-Fliegerkorps)
58. HJ (Hitler-Jugend), including its subsidiary organisations
59. RAD (Reichsarbeitsdienst)
60. OT (Organisation Todt)
61. TENO (Technische Nothilfe)
62. Nationalsozialistische Volkswohlfahrt

7. CONTROL COUNCIL DIRECTIVE NO. 38

The Arrest and Punishment of War Criminals, Nazis and Militarists and the Internment, Control and Surveillance of Potentially Dangerous Germans

Excerpts *[October 12, 1946]*

The Control Council directs as follows:

PART I

1. Object.

The object of this paper is to establish a common policy for Germany covering:

a) The punishment of war criminals, Nazis, Militarists, and industrialists who encouraged and supported the Nazi Regime.

b) The complete and lasting destruction of Nazism and Militarism by imprisoning and restricting the activities of important participants or adherents to these creeds.

c) The internment of Germans who, though not guilty of specific crimes, are considered to be dangerous to Allied purposes, and the control and surveillance of others considered potentially so dangerous.

. . . .

3. *The Problem and General Principles.*

It is considered that, in order to carry out the principles established at Potsdam, it will be necessary to classify war criminals and potentially dangerous persons into five main categories and to establish punishments and sanctions appropriate to each category. We consider that the composition of categories and the nature of penalties and sanctions should be agreed in some detail but without limiting in any way the full discretion conferred by Control Council Law No. 10 upon Zone Commanders.

4. A clear definition of Allied policy with regard to the obviously dangerous as well as to only potentially dangerous Germans is required at this time in order to establish uniform provisions for disposing of these persons in the various Zones.

5. *Categories and Sanctions.*

Composition of categories and sanctions are treated in detail in Part II of this Directive. They shall be applied in accordance with the following general principles:

a) A distinction should be made between imprisonment of war criminals and similar offenders for criminal conduct and internment of potentially dangerous persons who may be confined because their freedom would constitute a danger to the Allied Cause.

b) Zone Commanders may, if they so desire, place an individual in a lower category on probation, with the exception of those who have been convicted as major offenders on account of their guilt in specific crimes.

c) Within the categories, Zone Commanders will retain discretion to vary the sanctions if necessary to meet the requirements of individual cases within the limits laid down in this Directive.

d) The classification of all offenders and potentially dangerous persons, assessment of sanctions and the review of cases will be carried out by agencies to be designated by the Zone Commanders as responsible for the implementation of this Directive.

e) The Zone Commanders and tribunals will have the authority to upgrade or downgrade individuals between categories. Zone Commanders may, if they wish, use German tribunals for the purpose of classification, trial and review.

f) In order to prevent persons dealt with under this Directive avoiding any of the consequences of the Directive by moving to another Zone, each Zone Commander will ensure that the other Zones know and understand the methods employed by him in endorsing the identity documents of classified individuals.

g) To implement this Directive, it is recommended that each Zone Commander will issue Orders or Zonal Laws conforming in substance to the provisions and principles of this Directive in his own Zone. Zone Commanders will supply each other with copies of such Laws or Orders.

h) Provided that such Zonal Laws are in general conformity with the principles here set forth, full discretion is reserved to the individual Zone Commanders as regards their application in detail in accordance with the local situation in their respective Zones.

i) In Berlin the Allied Kommandatura will have the responsibility for implementing the principles and provisions of this Directive and will issue such regulations and orders as are required for that purpose. Whatever discretion in the implementation of this Directive is left to Zone Commanders will be exercised by the Allied Kommandatura in Berlin.

j) Apart from the categories and sanctions set forth in Part II of this Directive, persons who committed war crimes or crimes against peace or humanity as defined in Control Council Law No. 10 will be dealt with under the provisions and procedures prescribed by that Law.

PART II

ARTICLE I

Groups of Persons Responsible

In order to make a just determination of responsibility and to provide for imposition (except in the case of 5. below) of sanctions the following groupings of persons shall be made:

1. Major offenders;
2. Offenders (activists, militarists, and profiteers);
3. Lesser offenders (probationers);
4. Followers;
5. Persons exonerated. (Those included in the above categories who can prove themselves not guilty before a tribunal).

ARTICLE II

Major Offenders

Major Offenders are:

1. Anyone who, out of political motives, committed crimes against victims or opponents of national socialism;
2. Anyone who, in Germany or in the occupied areas, treated foreign civilians or prisoners of war contrary to International Law;
3. Anyone who is responsible for outrages, pillaging, deportations, or other acts of brutality, even if committed in fighting against resistance movements;
4. Anyone who was active in a leading position in the NSDAP, one of its formations or affiliated organizations, or in any other national socialistic or militaristic organization;
5. Anyone who, in the government of the Reich, the Laender, or in the administration of formerly occupied areas, held a leading position which could have been held only by a leading national socialist or a leading supporter of the national socialistic tyranny;
6. Anyone who gave major political, economic, propagandist or other support to the national socialistic tyranny, or who, by reason of his relations with the national socialistic tyranny, received very substantial profits for himself or others;
7. Anyone who was actively engaged for the national socialistic tyranny in the Gestapo, the SD, the SS, or the Geheime Feld- or Grenz-Polizei;
8. Anyone who, in any form whatever, participated in killings, tortures, or other cruelties in a concentration camp, a labour camp, or a medical institution or asylum;
9. Anyone who, for personal profit or advantage, actively collaborated with the Gestapo, SD, SS, or similar organisations by denouncing or otherwise aiding in the persecution of the opponents of the national socialistic tyranny;
10. Any member of the High Command of the German Armed Forces so specified.

• • • • • • •

ARTICLE III

Offenders

A. *Activists*

I. An activist is:

1. Anyone who by way of his position or activity, substantially advanced the national socialistic tyranny;

2. Anyone who exploited his position, his influence or his connections to impose force and utter threats, to act with brutality and to carry out oppressions or otherwise unjust measures;
3. Anyone who manifested himself as an avowed adherent of the national socialistic tyranny, more particularly of its racial creeds.

II. Activists are in particular the following persons, insofar as they are not major offenders:

1. Anyone who substantially contributed to the establishment, consolidation or maintenance of the national socialistic tyranny, by word or deed, especially publicly through speeches or writings or through voluntary donations out of his own or another's property or through using his personal reputation or his position of power in political, economic or cultural life;
2. Anyone who, through national socialistic teachings or education, poisoned the spirit and soul of the youth;
3. Anyone who, in order to strengthen the national socialistic tyranny, undermined family and marital life disregarding recognised moral principles;
4. Anyone who in the service of national socialism unlawfully interfered in the administration of justice or abused politically his office as judge or public prosecutor;
5. Anyone who in the service of national socialism agitated with incitement or violence against churches, religious communities or ideological associations;
6. Anyone who in the service of national socialism ridiculed, damaged or destroyed values of art or science;
7. Anyone who took a leading or active part in destroying trade unions, suppressing labour, and misappropriating trade union property;
8. Anyone who, as a provocateur, agent or informer, caused or attempted to cause, institution of a proceeding to the detriment of others because of their race, religion or political opposition to national socialism or because of violation of national socialist rules;
9. Anyone who exploited his position or power under the national socialistic tyranny to commit offences, in particular, extortions, embezzlements and frauds;
10. Anyone who by word or deed took an attitude of hatred towards opponents of the NSDAP in Germany or abroad, towards prisoners of war, the population of formerly occupied territories, foreign civilian workers, prisoners or like persons;
11. Anyone who favored transfer to service at the front because of opposition to national socialism.

III. An activist shall also be anyone who after 8 May 1945 has endangered or is likely to endanger the peace of the German people or of the world, through advocating national socialism or militarism or inventing or disseminating malicious rumors.

B. *Militarists*

I. A Militarist is:

1. Anyone who sought to bring the life of the German people into line with a policy of militaristic force;

2. Anyone who advocated or is responsible for the domination of foreign peoples, their exploitation or displacement; or

3. Anyone who, for these purposes, promoted armament.

II. Militarists are in particular the following persons, insofar as they are not major offenders:

1. Anyone who, by word or deed, established or disseminated militaristic doctrines or programs or was active in any organization (except the Wehrmacht) serving the advancement of militaristic ideas;

2. Anyone who before 1935 organized or participated in the organization of the systematic training of youth for war;

3. Anyone who, exercising the power of command, is responsible for the wanton devastation, after the invasion of Germany, of cities and country places;

4. Anyone without regard to his rank who, as a member of the Armed Forces (*Wehrmacht*), the Reich Labor Service (*Reichsarbeitsdienst*), the Organization Todt (OT), or Transport Group Speer, abused his official authority to obtain personal advantages or brutally to mistreat subordinates;

5. Anyone whose past training and activities in the General Staff Corps or otherwise has in the opinion of Zone Commanders contributed towards the promotion of militarism and who the Zone Commanders consider likely to endanger Allied purposes.

C. *Profiteers*

I. A profiteer is:

Anyone who, by use of his political position or connections, gained personal or economic advantages for himself or others from the national socialistic tyranny, the rearmament, or the war.

II. Profiteers are in particular the following persons, insofar as they are not major offenders:

1. Anyone who, solely on account of his membership in the NSDAP, obtained an office or a position or was preferentially promoted therein;

2. Anyone who received substantial donations from the NSDAP or its formations or affiliated organizations;

3. Anyone who obtained or strove for advantages for himself or others at the expense of those who were persecuted on political, religious or racial grounds, directly or indirectly, especially in connection with appropriations, forced sales, or similar transactions;

4. Anyone who made disproportionately high profits in armament or war transactions;

5. Anyone who unjustly enriched himself in connection with the administration of formerly occupied territories.

. . . .

ARTICLE IV

Lesser Offenders

Probationers

I. A lesser offender is:

1. Anyone including former members of the Armed Forces who otherwise belongs to the groups of offenders but because of special circumstances seems worthy of a milder judgement and can be expected according to his character to fulfil his duties as a citizen of a peaceful democratic state after he has proved himself in a period of probation.

2. Anyone who otherwise belongs to the group of followers but because of his conduct and in view of his character will first have to prove himself.

II. A lesser offender is more particularly:

1. Anyone who, born after the first day of January 1919, does not belong to the group of major offenders, but seems to be an offender, without however having manifested despicable or brutal conduct and who can be expected in view of his character to prove himself;

2. Anyone, not a major offender, who seems to be an offender but withdrew from national socialism and its methods, unqualifiedly and manifestly, at an early time.

. . . .

ARTICLE V

Followers

I. A follower is:

Anyone who was not more than a nominal participant in, or a supporter of, the national socialistic tyranny.

II. Subject to this standard, a follower is more particularly:

1. Anyone who, as a member of the NSDAP or of one of its formations, except the HJ and BDM, did no more than pay membership fees,

participate in meetings where attendance was obligatory, or carry out unimportant or purely routine duties such as were directed for all members;

2. Anyone, not a major offender, an offender, or a lesser offender, who was a candidate for membership in the NSDAP but had not yet been finally accepted as a member;

3. Anyone being a former member of the Armed Forces who, in the opinion of the Zone Commander, is liable by his qualification to endanger Allied purposes.

ARTICLE VI

Exonerated Persons

An exonerated person is:

Anyone who, in spite of this formal membership or candidacy or any other outward indication, not only showed a passive attitude but also actively resisted the national socialistic tyranny to the extent of his powers and thereby suffered disadvantages.

ARTICLE VII

Sanctions

In accordance with the extent of responsibility the sanctions set forth in Art. VIII–XI shall be imposed in just selection and gradation, to accomplish the exclusion of national socialism and militarism from the life of the German people and reparation of the damage caused.

ARTICLE VIII

Sanctions against Major Offenders

I. Major Offenders having committed a specific war crime will be liable to the following sanctions:

a) Death;

b) Imprisonment for life or for a period of five to fifteen years, with or without hard labour;

c) In addition, any of the sanctions listed in para. II of this Article may be imposed.

II. The following sanctions may be imposed upon other Major Offenders:

a) They shall be imprisoned or interned for a period not exceeding 10 years; internment after 8 May 1945 can be taken into account; disabled persons will be required to perform special work in accordance with their capability;

b) Their property may be confiscated. However, there shall be left to them an amount necessary to cover the bare existence after taking into consideration family conditions and earning power;

c) They shall be ineligible to hold any public office, including that of notary or attorney;

d) They shall lose any legal claims to a pension or allowance payable from public funds;

e) They shall lose the right to vote, the capacity to be elected, and the right to be politically active in any way or to be members of a political party;

f) They shall not be allowed to be members of a trade union or a business or vocational association;

g) They shall be prohibited for a period of not less than ten years after their release:

1) To be active in a profession or, independently, in an enterprise or economic undertaking of any kind, to own a share therein or to supervise or control it;
2) To be employed in any dependent position, other than ordinary labour;
3) To be active as teacher, preacher, editor, author, or radio commentator;

h) They are subject to restrictions as regards living space and place of residence, and may be enlisted for public works service;

i) They shall lose all licenses, concessions and privileges granted them and the right to keep a motor vehicle.

ARTICLE IX

Sanctions against Offenders

1. They may be imprisoned or interned for a period up to ten years in order to perform reparation and reconstruction work. Political internment after 8 May 1945 can be taken into account.

2. Their property may be confiscated (as a contribution for reparation), either as a whole or in part. In case the property is confiscated in part, capital goods (*Sachwerte*) should be preferred. The necessary items for daily use shall be left to them.

3. They shall be ineligible to hold any public office, including that of notary or attorney.

4. They shall lose any legal claims to a pension or allowance payable from public funds.

5. They shall lose the right to vote, the capacity to be elected, and the right to be politically active in any way or to be members of a political party.

6. They shall not be allowed to be members of a trade union or business or vocational association.

7. They shall be prohibited, for a period of not less than five years after their release:

a) To be active in a profession or, independently, in an enterprise or economic undertaking of any kind, to own a share therein or to supervise or control it.

b) To be employed in any dependent position, other than ordinary labour.

c) To be active as a teacher, preacher, editor, author, or radio commentator.

8. They are subject to restriction as regards living space and place of residence.

9. They shall lose all licenses, concessions and privileges granted them and the right to keep a motor vehicle.

10. Within the discretion of Zone Commanders sanctions may be included in zonal laws forbidding offenders to leave a Zone without permission.

ARTICLE X

Sanctions against lesser offenders

If the finding of the tribunal places an individual in the category of lesser offenders, he may be placed on probation. The time of probation shall be at least two years but, as a rule, not more than three years. To which group a person responsible hereunder will be finally allocated will depend on his conduct during the period of probation. While on probation, the following sanctions will apply:

1. They shall be prohibited, during the period of probation:

a) To operate an enterprise as owner, partner, manager or executive, supervise or control an enterprise or to acquire any enterprise in whole or in part, or any interest or share therein, in whole or in part;

b) To be active as teacher, preacher, author, editor or radio commentator.

2. In the event the lesser offender is the owner of an independent enterprise, or any share therein, at the time of his classification, his interest in such enterprise may be blocked.

3. The term enterprise as used in paragraph 1 a) and 2 of this Article need not include small undertakings of craftsmen, retail shops, farms and like undertakings, having less than 20 employees.

4. Property values, acquisition of which rested upon use of political connections or special national socialistic measures such as aryanization and armament shall be confiscated.

5. For the period of probation additional sanctions, taken from those set forth in Article XI hereof may be imposed, with just selection and modification, more particularly:

a) Restrictions in the exercise of an independent profession, and prohibition to train apprentices;
b) In respect of civil servants: reduction of retirement pay, retirement or transfer to an office with lesser rank or to another position with reduction of compensation, rescission of promotion, transfer from the civil service relationship into that of a contractual employee.

6. Internment in a labor camp or confiscation of the whole property may not be ordered.
7. Within the discretion of Zone Commanders sanctions may be included in zonal laws forbidding the lesser offenders to leave a Zone without permission.
8. Within the discretion of Zone Commanders sanctions may be included in zonal laws denying them the capacity to be elected and the right to be politically active in any way or to be members of a political party. They may also be denied the right to vote.
9. They may be required to report periodically to the police in the place of their residence.

ARTICLE XI

Sanctions against followers

The following sanctions against followers may be applied at the discretion of the Zone Commanders:

1. They may be required to report periodically to the police in the place of their residence;
2. They will not be permitted to leave a Zone or Germany without permission;
3. Civilian members in this category may not stand for election at any level but may vote.
4. In addition, in the case of civil servants, retirement or transfer to an office with lesser rank or to another position, possibly with reduction of compensation or rescission of a promotion instituted while the person belonged to the NSDAP, may be ordered. Corresponding measures may be ordered against persons in economic enterprises including agriculture and forestry.
5. They may be ordered to pay single or recurrent contributions to funds for reparations. When determining contributions, the follower's period of membership, the fees and contributions paid by him, his wealth and income, his family conditions and other relevant factors shall be taken into consideration.

ARTICLE XII

Exonerated Persons

No sanction will be applied against persons declared to be exonerated by a tribunal.

ARTICLE XIII

Persons in the categories defined in Articles II to VI above who are guilty of specific war crimes or other offences may be prosecuted regardless of their classification under this Directive. Imposing of Sanctions under this Directive shall not bar criminal prosecutions for the same offence.

Done at Berlin on the 12th day of October 1946.

R. Noiret
Général de Division
P. A. Kurochkin
Colonel General
Lucius D. Clay
Lieutenant General
G. W. E. J. Erskine
Major General
for B. H. Robertson
Lieutenant General

Appendix E

WAR CRIMINALS

Appendix E

WAR CRIMINALS

1. AGREEMENT FOR THE ESTABLISHMENT OF AN INTERNATIONAL MILITARY TRIBUNAL

Agreement by the Government of the United States of America, the Provisional Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics for the prosecution and punishment of the major war criminals of the European Axis

[*August 8, 1945*]

Whereas the United Nations have from time to time made declarations of their intention that war criminals shall be brought to justice;

And whereas the Moscow Declaration of the 30th October 1943 on German atrocities in occupied Europe stated that those German officers and men and members of the Nazi party who have been responsible for or have taken a consenting part in atrocities and crimes will be sent back to the countries in which their abominable deeds were done in order that they may be judged and punished according to the laws of these liberated countries and of the free governments that will be created therein;

And whereas this declaration was stated to be without prejudice to the case of major criminals whose offenses have no particular geographical location and who will be punished by the joint decision of the Governments of the Allies;

Now therefore the Government of the United States of America, the Provisional Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics (hereinafter called "the signatories") acting in the interests of all the United Nations and by their representatives duly authorized thereto have concluded this agreement.

Article 1. There shall be established after consultation with the Control Council for Germany an International Military Tribunal for the trial of war criminals whose offenses have no particular geographical location whether they be accused individually or in their capacity as members of organizations or groups or in both capacities.

Article 2. The constitution, jurisdiction and functions of the International Military Tribunal shall be those set out in the charter annexed to this agreement, which Charter shall form an integral part of this agreement.

Article 3. Each of the signatories shall take the necessary steps to make available for the investigation of the charges and trial the major war criminals detained by them who are to be tried by the International Military Tribunal. The signatories shall also use their best endeavors to make available for investigation of the charges against and the trial before the International Military Tribunal such of the major war criminals as are not in the territories of any of the signatories.

Article 4. Nothing in this agreement shall prejudice the provisions established by the Moscow Declaration concerning the return of war criminals to the countries where they committed their crimes.

Article 5. Any Government of the United Nations may adhere to this agreement by notice given through the diplomatic channel to the Government of the United Kingdom, who shall inform the other signatory and adhering Governments of each such adherence.

Article 6. Nothing in this agreement shall prejudice the jurisdiction or the powers of any national or occupation court established or to be established in any Allied territory or in Germany for the trial of war criminals.

Article 7. This agreement shall come into force on the day of signature and shall remain in force for the period of one year and shall continue thereafter, subject to the right of any signatory to give, through the diplomatic channel, one month's notice of intention to terminate it. Such termination shall not prejudice any proceedings already taken or any findings already made in pursuance of this agreement.

In witness whereof the undersigned have signed the present agreement.

Done in quadruplicate in London this eighth day of August 1945 each in English, French and Russian, and each text to have equal authenticity.

For the Government of the United States of America
ROBERT H. JACKSON
For the Provisional Government of the French Republic
ROBERT FOLCO
For the Government of the United Kingdom of Great Britain and Northern Ireland
JOWITT C.
For the Government of the Union of Soviet Socialist Republics
I. T. NIKITCHENKO
A. N. TRAININ

2. CHARTER OF THE INTERNATIONAL MILITARY TRIBUNAL[1]

Excerpt [*August 8, 1945*]

. . . .

II. Jurisdiction and General Principles

Article 6. The Tribunal established by the agreement referred to in article 1 hereof for the trial and punishment of the major war criminals of the European Axis countries shall have the power to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organizations, committed any of the following crimes.

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

(a) Crimes against peace: Namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

(b) War Crimes: Namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity;

(c) Crimes against humanity: Namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.

---

[1] For full text see *Trial of War Criminals* (Department of State publication 2420), pp. 15–21.

3. STATEMENT BY JUSTICE JACKSON

Opening Address for the United States of America by Robert H. Jackson, Representative and Chief of Counsel for the United States of America at the Palace of Justice, Nürnberg, Germany, November 21, 1945

Excerpts

May It Please Your Honors,

The privilege of opening the first trial in history for crimes against the peace of the world imposes a grave responsibility. The wrongs which we seek to condemn and punish have been so calculated, so malignant and so devastating, that civilization cannot tolerate their being ignored because it cannot survive their being repeated. That four great nations, flushed with victory and stung with injury, stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power ever has paid to Reason.

This tribunal, while it is novel and experimental, is not the product of abstract speculations nor is it created to vindicate legalistic theories. This inquest represents the practical effort of four of the most mighty of nations, with the support of 17 more, to utilize International Law to meet the greatest menace of our times—aggressive war. The common sense of mankind demands that law shall not stop with the punishment of petty crimes by little people. It must also reach men who possess themselves of great power and make deliberate and concerted use of it to set in motion evils which leave no home in the world untouched. It is a cause of this magnitude that the United Nations will lay before Your Honors.

In the prisoners' dock sit twenty-odd broken men. Reproached by the humiliation of those they have led almost as bitterly as by the desolation of those they have attacked, their personal capacity for evil is forever past. It is hard now to perceive in these miserable men as captives the power by which as Nazi leaders they once dominated much of the world and terrified most of it. Merely as individuals, their fate is of little consequence to the world.

What makes this inquest significant is that those prisoners represent sinister influences that will lurk in the world long after their bodies have returned to dust. They are living symbols of racial hatreds, of terrorism and violence, and of the arrogance and cruelty of power. They are symbols of fierce nationalisms and militarism, of intrigue and war-making which have embroiled Europe generation after generation, crushing its manhood, destroying its homes, and impoverishing its life. They have so identified themselves with the philosophies they conceived and with the forces they directed that any tenderness to them is a victory and an encouragement to all the evils which are attached to their names. Civilization can afford no compromise with the social forces which would gain renewed strength if we deal ambiguously or indecisively with the men in whom those forces now precariously survive.

What these men stand for we will patiently and temperately disclose. We will give you undeniable proofs of incredible events. The catalogue of crimes will omit nothing that could be conceived by a pathological pride, cruelty, and lust for power. These men created in Germany, under the *Führerprinzip*, a National Socialist despotism equalled only by the dynasties of the ancient East. They took from the German people all those dignities and freedoms that we hold natural and inalienable rights in every human being. The people were compensated by inflaming and gratifying hatreds toward those who were marked as "scape-goats." Against their opponents, including Jews, Catholics, and free labor the Nazis directed such a campaign of arrogance, brutality, and annihilation as the world has not witnessed since the pre-Christian ages. They excited the German ambition to be a "master race," which of course implies serfdom for others. They led their people on a mad gamble for domination. They diverted social energies and resources to the creation of what they thought to be an invincible war machine. They overran their neighbors. To sustain the "master race" in its war making, they enslaved millions of human beings and brought them into Germany, where these hapless creatures now wander as "displaced persons". At length bestiality and bad faith reached such excess that they aroused the sleeping strength of imperiled civilization. Its united efforts have ground the German war machine to fragments. But the struggle has left Europe a liberated yet prostrate land where a demoralized society struggles to survive. These are the fruits of the sinister forces that sit with these defendants in the prisoners' dock.

In justice to the nations and the men associated in this prosecution, I must remind you of certain difficulties which may leave their mark on this case. Never before in legal history has an effort been made to bring within the scope of a single litigation the developments of a decade, covering a whole Continent, and involving a score of nations, countless individuals, and innumerable events. Despite the magnitude of the task, the world has demanded immediate action. This demand has had to be met, though perhaps at the cost of finished craftsmanship. In my country, established courts, following familiar procedures, applying well thumbed precedents, and dealing with the legal consequences of local and limited events seldom commence a trial within a year of the event in litigation. Yet less than eight months ago today the courtroom in which you sit was an enemy fortress in the hands of German SS troops. Less than eight months ago nearly all our witnesses and documents were in enemy hands. The law had not been codified, no procedure had been established, no Tribunal was in existence, no usable courthouse stood here, none of the hundreds of tons of official German documents had been examined, no prosecuting staff had been assembled, nearly all the present defendants were at large, and the four prosecuting powers had not yet joined in common cause to try them. I should be the last to deny that the case may well suffer from incomplete researches and quite likely will not be the example of professional work which any of the prosecuting nations would normally wish to sponsor. It is, however, a completely adequate case to the judgment we shall ask you to render, and its full development we shall be obliged to leave to historians.

. . . .

Unfortunately, the nature of these crimes is such that both prosecution and judgment must be by victor nations over vanquished foes. The worldwide scope of the aggressions carried out by these men has left but few real neutrals. Either the victors must judge the vanquished or we must leave the defeated to judge themselves. After the First World War, we learned the futility of the latter course. The former high station of these defendants, the notoriety of their acts, and the adaptability of their conduct to provoke retaliation make it hard to distinguish between the demand for a just and measured retribution, and the unthinking cry for vengeance which arises from the anguish of war. It is our task, so far as humanly possible, to draw the line between the two. We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our own lips as well. We must summon such detachment and intellectual integrity to our task that this trial will commend itself to posterity as fulfilling humanity's aspirations to do justice.

. . . . . .

I am too well aware of the weaknesses of juridical action alone to contend that in itself your decision under this Charter can prevent future wars. Judicial action always comes after the event. Wars are started only on the theory and in the confidence that they can be won. Personal punishment, to be suffered only in the event the war is lost, will probably not be a sufficient deterrent to prevent a war where the warmakers feel the chances for defeat to be negligible.

But the ultimate step in avoiding periodic wars, which are inevitable in a system of international lawlessness, is to make statesmen responsible to law. And let me make clear that while this law is first applied against German aggressors, the law includes, and if it is to serve a useful purpose it must condemn aggression by any other nations, including those which sit here now in judgment. We are able to do away with domestic tyranny and violence and aggression by those in power against the rights of their own people only when we make all men answerable to the law. This trial represents mankind's desperate effort to apply the discipline of the law to statesmen who have used their powers of state to attack the foundations of the world's peace and to commit aggressions against the rights of their neighbors.

The usefulness of this effort to do justice is not to be measured by considering the law or your judgment in isolation. This trial is part of the great effort to make the peace more secure. One step in this direction is the United Nations organization, which may take joint political action to prevent war if possible, and joint military action to insure that any nation which starts a war will lose it. This Charter and this trial, implementing the Kellogg-Briand Pact, constitute another step in the same direction—juridical action of a kind to ensure that those who start a war will pay for it personally.

While the defendants and the prosecutors stand before you as individuals, it is not the triumph of either group alone that is committed to your judgment. Above all personalities there are anonymous and impersonal forces whose conflict makes up much of human history. It is yours to throw the strength of the law back of either the one or the other of these forces for at least another generation. What are the real forces that are contending before you?

No charity can disguise the fact that the forces which these defendants represent, the forces that would advantage and delight in their acquittal, are the darkest and most sinister forces in society—dictatorship and oppression, malevolence and passion, militarism and lawlessness. By their fruits we best know them. Their acts have bathed the world in blood and set civilization back a century. They have subjected their European neighbors to every outrage and torture, every spoliation and deprivation that insolence, cruelty, and greed could inflict. They have brought the German people to the lowest pitch of wretchedness, from which they can entertain no hope of early deliverance. They have stirred hatreds and incited domestic violence on every continent. These are the things that stand in the dock shoulder to shoulder with these prisoners.

The real complaining party at your bar is Civilization. In all our countries it is still a struggling and imperfect thing. It does not plead that the United States, or any other country, has been blameless of the conditions which made the German people easy victims to the blandishments and intimidations of the Nazi conspirators.

But it points to the dreadful sequence of aggressions and crimes I have recited, it points to the weariness of flesh, the exhaustion of resources, and the destruction of all that was beautiful or useful in so much of the world, and to greater potentialities for destruction in the days to come. It is not necessary among the ruins of this ancient and beautiful city, with untold numbers of its civilian inhabitants still buried in its rubble, to argue the proposition that to start or wage an aggressive war has the moral qualities of the worst of crimes. The refuge of the defendants can be only their hope that International Law will lag so far behind the moral sense of mankind that conduct which is crime in the moral sense must be regarded as innocent in law.

Civilization asks whether law is so laggard as to be utterly helpless to deal with crimes of this magnitude by criminals of this order of importance. It does not expect that you can make war impossible. It does expect that your juridical action will put the forces of International Law, its precepts, its prohibitions and, most of all, its sanctions, on the side of peace, so that men and women of good will in all countries may have "leave to live by no man's leave, underneath the law."

4. CONTROL COUNCIL LAW NO. 10

Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity

[December 20, 1945]

In order to give effect to the terms of the Moscow Declaration of 30 October 1943 and the London Agreement of 8 August 1945, and the Charter issued pursuant thereto and in order to establish a uniform legal basis in Germany for the prosecution of war criminals and other similar offenders, other than those dealt with by the International Military Tribunal, the Control Council enacts as follows:

ARTICLE I

The Moscow Declaration of 30 October 1943 "Concerning Responsibility of Hitlerites for Committed Atrocities" and the London Agreement of 8 August 1945 "Concerning Prosecution and Punishment of Major War Criminals of the European Axis" are made integral parts of this Law. Adherence to the provisions of the London Agreement by any of the United Nations, as provided for in Article V of that Agreement, shall not entitle such Nation to participate or interfere in the operation of this Law within the Control Council area of authority in Germany.

ARTICLE II

1. Each of the following acts is recognized as a crime:

(a) *Crimes against Peace.* Initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation or waging a war of aggression, or a war of violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.

(b) *War Crimes.* Atrocities or offences against persons or property constituting violations of the laws or customs of war, including but not limited to, murder, ill treatment or deportation to slave labour or for any other purpose, of civilian population from occupied territory, murder or ill treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity.

(c) *Crimes against Humanity.* Atrocities and offences, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated.

(d) Membership in categories of a criminal group or organization declared criminal by the International Military Tribunal.

2. Any person without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this Article, if he was (a) a principal or (b) was an accessory to the commission of any such crime or ordered or abetted the same or (c) took a consenting part therein or (d) was connected with plans or enterprises involving its commission or (e) was a member of any organization or group connected with the commission of any such crime or (f) with reference to paragraph 1 (a), if he held a high political, civil or military (including General Staff) position in Germany or in one of its Allies, co-belligerents or satellites or held high position in the financial, industrial or economic life of any such country.

3. Any person found guilty of any of the Crimes above mentioned may upon conviction be punished as shall be determined by the tribunal to be just. Such punishment may consist of one or more of the following:

(a) Death.

(b) Imprisonment for life or a term of years, with or without hard labour.

(c) Fine, and imprisonment with or without hard labour, in lieu thereof.

(d) Forfeiture of property.

(e) Restitution of property wrongfully acquired.

(f) Deprivation of some or all civil rights.

Any property declared to be forfeited or the restitution of which is ordered by the Tribunal shall be delivered to the Control Council for Germany, which shall decide on its disposal.

4. (a) The official position of any person, whether as Head of State or as a responsible official in a Government Department, does not free him from responsibility for a crime or entitle him to mitigation of punishment.

(b) The fact that any person acted pursuant to the order of his Government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation.

5. In any trial or prosecution for a crime herein referred to, the accused shall not be entitled to the benefits of any statute of limitation in respect of the period from 30 January 1933 to 1 July 1945, nor shall any immunity, pardon or amnesty granted under the Nazi regime be admitted as a bar to trial or punishment.

ARTICLE III

1. Each occupying authority, within its Zone of occupation,

(a) shall have the right to cause persons within such Zone suspected of having committed a crime, including those charged with crime by one of the United Nations, to be arrested and shall take under control the property, real and personal, owned or controlled by the said persons, pending decisions as to its eventual disposition.

(b) shall report to the Legal Directorate the names of all suspected criminals, the reasons for and the places of their detention, if they are detained, and the names and location of witnesses.

(c) shall take appropriate measures to see that witnesses and evidence will be available when required.

(d) shall have the right to cause all persons so arrested and charged, and not delivered to another authority as herein provided, or released, to be brought to trial before an appropriate tribunal. Such tribunal may, in the case of crimes committed by persons of German citizenship or nationality against other persons of German citizenship or nationality, or stateless persons, be a German Court, if authorized by the occupying authorities.

2. The tribunal by which persons charged with offenses hereunder shall be tried and the rules and procedure thereof shall be determined

or designated by each Zone Commander for his respective Zone. Nothing herein is intended to, or shall impair or limit the jurisdiction or power of any court or tribunal now or hereafter established in any Zone by the Commander thereof, or of the International Military Tribunal established by the London Agreement of 8 August 1945.

3. Persons wanted for trial by an International Military Tribunal will not be tried without the consent of the Committee of Chief Prosecutors. Each Zone Commander will deliver such persons who are within his Zone to that committee upon request and will make witnesses and evidence available to it.

4. Persons known to be wanted for trial in another Zone or outside Germany will not be tried prior to decision under Article IV unless the fact of their apprehension has been reported in accordance with Section 1 (b) of this Article, three months have elapsed thereafter, and no request for delivery of the type contemplated by Article IV has been received by the Zone Commander concerned.

5. The execution of death sentences may be deferred by not to exceed one month after the sentence has become final when the Zone Commander concerned has reason to believe that the testimony of those under sentence would be of value in the investigation and trial of crimes within or without his Zone.

6. Each Zone Commander will cause such effect to be given to the judgments of courts of competent jurisdiction, with respect to the property taken under his control pursuant hereto, as he may deem proper in the interest of justice.

ARTICLE IV

1. When any person in a Zone in Germany is alleged to have committed a crime, as defined in Article II, in a country other than Germany or in another Zone, the government of that nation or the Commander of the latter Zone, as the case may be, may request the Commander of the Zone in which the person is located for his arrest and delivery for trial to the country or Zone in which the crime was committed. Such request for delivery shall be granted by the Commander receiving it unless he believes such person is wanted for trial or as a witness by an International Military Tribunal, or in Germany, or in a nation other than the one making the request, or the Commander is not satisfied that delivery should be made, in any of which cases he shall have the right to forward the said request to the Legal Directorate of the Allied Control Authority. A similar procedure shall apply to witnesses, material exhibits and other forms of evidence.

2. The Legal Directorate shall consider all requests referred to it, and shall determine the same in accordance with the following principles, its determination to be communicated to the Zone Commander.

(a) A person wanted for trial or as a witness by an International Military Tribunal shall not be delivered for trial or required to give evidence outside Germany, as the case may be, except upon approval of the Committee of Chief Prosecutors acting under the London Agreement of 8 August 1945.

(b) A person wanted for trial by several authorities (other than an International Military Tribunal) shall be disposed of in accordance with the following priorities:

(1) If wanted for trial in the Zone in which he is, he should not be delivered unless arrangements are made for his return after trial elsewhere;

(2) If wanted for trial in a Zone other than that in which he is, he should be delivered to that Zone in preference to delivery outside Germany unless arrangements are made for his return to that Zone after trial elsewhere;

(3) If wanted for trial outside Germany by two or more of the United Nations, of one of which he is a citizen, that one should have priority;

(4) If wanted for trial outside Germany by several countries, not all of which are United Nations, United Nations should have priority;

(5) If wanted for trial outside Germany by two or more of the United Nations, then, subject to Article IV 2 (b) (3) above, that which has the most serious charges against him, which are moreover supported by evidence, should have priority.

ARTICLE V

The delivery, under Article IV of this Law, of persons for trial shall be made on demands of the Governments or Zone Commanders in such a manner that the delivery of criminals to one jurisdiction will not become the means of defeating or unnecessarily delaying the carrying out of justice in another place. If within six months the delivered person has not been convicted by the Court of the Zone or country to which he has been delivered, then such person shall be returned upon demand of the Commander of the Zone where the person was located prior to delivery.

Done at Berlin 20 December 1945

JOSEPH T. MCNARNEY
General
BERNARD L. MONTGOMERY
Field Marshal
L. KOELTZ
Général de Corps d'Armée
G. ZHUKOV
Marshal of the Soviet Union

Appendix F

POPULATION ADJUSTMENTS

Appendix F

POPULATION ADJUSTMENTS

1. POTSDAM AGREEMENT

Excerpt *Released August 2, 1945*

. . . .

XIII. Orderly Transfers of German Populations

The conference reached the following agreement on the removal of Germans from Poland, Czechoslovakia and Hungary:

The three governments having considered the question in all its aspects, recognize that the transfer to Germany of German populations, or elements thereof, remaining in Poland, Czechoslovakia and Hungary, will have to be undertaken. They agree that any transfers that take place should be effected in an orderly and humane manner.

Since the influx of a large number of Germans into Germany would increase the burden already resting on the occupying authorities, they consider that the Allied Control Council in Germany should in the first instance examine the problem with special regard to the question of the equitable distribution of these Germans among the several zones of occupation. They are accordingly instructing their respective representatives on the Control Council to report to their governments as soon as possible the extent to which such persons have already entered Germany from Poland, Czechoslovakia and Hungary, and to submit an estimate of the time and rate at which further transfers could be carried out, having regard to the present situation in Germany.

The Czechoslovak Government, the Polish Provisional Government and the Control Council in Hungary are at the same time being informed of the above, and are being requested meanwhile to suspend further expulsions pending the examination by the governments concerned of the report from their representatives on the Control Council.

Appendix G

ECONOMIC AND REPARATION POLICY

Appendix G

ECONOMIC AND REPARATION POLICY

1. JCS 1067

Directive to Commander in Chief of United States Forces of Occupation Regarding the Military Government of Germany

Press Release 769 [*October 17, 1945*]
JCS 1067 (April 1945) revised
Excerpts

. . . .

5. Economic Controls

a. As a member of the Control Council and as zone commander, you will be guided by the principle that controls upon the Germany economy may be imposed to the extent that such controls may be necessary to achieve the objectives enumerated in paragraph 4 above and also as they may be essential to protect the safety and meet the needs of the occupying forces and assure the production and maintenance of goods and services required to prevent starvation or such disease and unrest as would endanger these forces. No action will be taken in execution of the reparations program or otherwise which would tend to support basic living conditions in Germany or in your zone on a higher level than that existing in any one of the neighboring United Nations.

b. In the imposition and maintenance of such controls as may be prescribed by you or the Control Council, German authorities will to the fullest extent practicable be ordered to proclaim and assume administration of such controls. Thus it should be brought home to the German people that the responsibility for the administration of such controls and for any breakdowns in those controls will rest with themselves and German authorities.

. . . .

General Objectives and Methods of Control

16. You will assure that the German economy is administered and controlled in such a way as to accomplish the basic objectives set forth in paragraphs 4 and 5 of this Directive. Economic controls will be imposed only to the extent necessary to accomplish these objectives, provided that you will impose controls to the full extent necessary to achieve the industrial disarmament of Germany. Except as may be necessary to carry out these objectives, you will take no steps (a) look-

ing toward the economic rehabilitation of Germany, or (b) designed to maintain or strengthen the German economy.

. . . .

18. In order to decentralize the structure and administration of the German economy to the maximum possible extent, you will

a. ensure that the action required to maintain or restore essential public utilities and industrial and agricultural activities is taken as far as possible on a local and regional basis;

b. on no account propose or approve in the Control Council the establishment of centralized administration of controls over the German economy except where such centralization of administration is clearly essential to the fulfilment of the objectives listed in paragraphs 4 and 5 of this directive. Decentralization in administration should not be permitted to interfere with attainment of the largest practicable measure of agreement on economic policies in the Control Council.

. . . .

German Standard of Living

21. You will estimate requirements of supplies necessary to prevent starvation or widespread disease or such civil unrest as would endanger the occupying forces. Such estimates will be based upon a program whereby the Germans are made responsible for providing for themselves, out of their own work and resources. You will take all practicable economic and police measures to assure that German resources are fully utilized and consumption held to the minimum in order that imports may be strictly limited and that surpluses may be made available for the occupying forces and displaced persons and United Nations prisoners of war, and for reparation. You will take no action that would tend to support basic living standards in Germany on a higher level than that existing in any one of the neighboring United Nations and you will take appropriate measures to ensure that basic living standards of the German people are not higher than those existing in any one of the neighboring United Nations when such measures will contribute to raising the standards of any such nation.

22. You will urge upon the Control Council that uniform ration scales be applied throughout Germany, that essential items be distributed equitably among the zones, that net surpluses be made available for export to Allied countries, and that imports be limited to the net deficits of Germany as a whole.

. . . .

30. In order to disarm Germany, the Control Council should

a. prevent the production, acquisition by importation or otherwise, and development of all arms, ammunition and implements of war, as well as all types of aircraft, and all parts, components and ingredients specially designed or produced for incorporation therein;

b. prevent the production of merchant ships, synthetic rubber and oil, aluminum and magnesium and any other products and equipment on which you will subsequently receive instructions;

c. seize and safeguard all facilities used in the production of any of the items mentioned in this paragraph and dispose of them as follows:

(1) remove all those required for reparation;
(2) destroy all those not transferred for reparation if they are especially adapted to the production of the items specified in this paragraph and are not of a type generally used in industries permitted to the Germans (cases of doubt to be resolved in favor of destruction);
(3) hold the balance for disposal in accordance with instructions which will be sent to you.

Pending agreement in the Control Council you will take these measures in your own zone. You will not postpone enforcement of the prohibitions contained in subparagraphs *a* and *b* and the instructions in subparagraph *c* without specific approval of your government through the Joint Chiefs of Staff except that, in your discretion, you may permit the production of synthetic rubber and oil, aluminum and magnesium, to the minimum extent necessary to meet the purposes stated in paragraphs 4 and 5 of the directive pending action by the Joint Chiefs of Staff upon such recommendation for postponement as you may make.

. . . .

32. Pending final Allied agreements on reparation and on control or elimination of German industries that can be utilized for war production, the Control Council should

a. prohibit and prevent production of iron and steel, chemicals, non-ferrous metals (excluding aluminum and magnesium), machine tools, radio and electrical equipment, automotive vehicles, heavy machinery and important parts thereof, except for the purposes stated in paragraphs 4 and 5 of this directive;

b. prohibit and prevent rehabilitation of plant and equipment in such industries except for the purposes stated in paragraphs 4 and 5 of this directive; and

c. safeguard plant and equipment in such industries for transfer on reparation account.

Pending agreement in the Control Council, you will put such measures into effect in your own zone as soon as you have had an opportunity to review and determine production necessary for the purposes stated in paragraphs 4 and 5 of this directive.

33. The Control Council should adopt a policy permitting the conversion of facilities other than those mentioned in paragraphs 30 and 32 to the production of light consumer goods, provided that such conversion does not prejudice the subsequent removal of plant and equipment on reparation account and does not require any imports beyond those necessary for the purposes specified in paragraphs 4 and 5 of this directive. Pending agreement in the Control Council, you may permit such conversion in your zone.

. . . .

36. You will prohibit all cartels or other private business arrangements and cartel-like organizations, including those of a public or quasi-public character such as the *Wirtschaftsgruppen* providing for the regulation of marketing conditions, including production, prices, exclusive exchange of technical information and processes, and allocation of sales territories. Such necessary public functions as have been discharged by these organizations shall be absorbed as rapidly as possible by approved public agencies.

37. It is the policy of your government to effect a dispersion of the ownership and control of German industry. To assist in carrying out this policy you will make a survey of combines and pools, mergers, holding companies and interlocking directorates and communicate the results, together with recommendations, to your government through the Joint Chiefs of Staff. You will endeavor to obtain agreement in the Control Council to the making of this survey in the other zones of occupation and you will urge the coordination of the methods and results of this survey in the various zones.

. . . .

Foreign Trade and Reparation

40. The Control Council should establish centralized control over all trade in goods and services with foreign countries. Pending agreement in the Control Council you will impose appropriate controls in your own zone.

41. Both as member of the Control Council and as zone commander you will take appropriate steps to ensure that

a. the foreign trade controls are designed to carry out the objectives stated in paragraphs 4 and 5 of this directive;

b. imports which are permitted and furnished to Germany are confined to those unavoidably necessary to the objectives stated in paragraphs 4 and 5;

c. exports to countries other than the United Nations are prohibited unless specifically authorized by the Allied governments.

2. POTSDAM AGREEMENT

Excerpt *Released August 2, 1945*

. . . .

III. Germany

B. ECONOMIC PRINCIPLES

11. In order to eliminate Germany's war potential, the production of arms, ammunition and implements of war as well as all types of aircraft and sea-going ships shall be prohibited and prevented. Production of metals, chemicals, machinery and other items that are directly necessary to a war economy shall be rigidly controlled and restricted to Germany's approved post-war peacetime needs to meet the objectives stated in paragraph 15. Productive capacity not needed for permitted production shall be removed in accordance with the reparations plan recommended by the Allied Commission on reparations and approved by the governments concerned or if not removed shall be destroyed.

12. At the earliest practicable date, the German economy shall be decentralized for the purpose of eliminating the present excessive concentration of economic power as exemplified in particular by cartels, syndicates, trusts and other monopolistic arrangements.

13. In organizing the German economy, primary emphasis shall be given to the development of agriculture and peaceful domestic industries.

14. During the period of occupation Germany shall be treated as a single economic unit. To this end common policies shall be established in regard to:

(a) Mining and industrial production and allocations;
(b) Agriculture, forestry and fishing;
(c) Wages, prices and rationing;
(d) Import and export programs for Germany as a whole;
(e) Currency and banking, central taxation and customs;
(f) Reparation and removal of industrial war potential;
(g) Transportation and communications.

In applying these policies account shall be taken, where appropriate, of varying local conditions.

15. Allied controls shall be imposed upon the German economy but only to the extent necessary:

(a) To carry out programs of industrial disarmament and demilitarization, of reparations, and of approved exports and imports.

(b) To assure the production and maintenance of goods and services required to meet the needs of the occupying forces and displaced persons in Germany and essential to maintain in Germany average living standards not exceeding the average of the standards of living of European countries. (European countries means all European countries excluding the United Kingdom and the Union of Soviet Socialist Republics.)

(c) To ensure in the manner determined by the Control Council the equitable distribution of essential commodities between the several zones so as to produce a balanced economy throughout Germany and reduce the need for imports.

(d) To control German industry and all economic and financial international transactions, including exports and imports, with the aim of preventing Germany from developing a war potential and of achieving the other objectives named herein.

(e) To control all German public or private scientific bodies, research and experimental institutions, laboratories, et cetera, connected with economic activities.

16. In the imposition and maintenance of economic controls established by the Control Council, German administrative machinery shall be created and the German authorities shall be required to the fullest extent practicable to proclaim and assume administration of such controls. Thus it should be brought home to the German people that the responsibility for the administration of such controls and any breakdown in these controls will rest with themselves. Any German controls which may run counter to the objectives of occupation will be prohibited.

17. Measures shall be promptly taken:

(a) To effect essential repair of transport;
(b) To enlarge coal production;
(c) To maximize agricultural output; and
(d) To effect emergency repair of housing and essential utilities.

18. Appropriate steps shall be taken by the Control Council to exercise control and the power of disposition over German-owned external assets not already under the control of United Nations which have taken part in the war against Germany.

19. Payment of reparations should leave enough resources to enable the German people to subsist without external assistance. In working out the economic balance of Germany the necessary means must be provided to pay for imports approved by the Control Council in Germany. The proceeds of exports from current production and stocks shall be available in the first place for payment for such imports.

The above clause will not apply to the equipment and products referred to in paragraphs 4(A) and 4(B) of the Reparations Agreement.

IV. Reparations from Germany

In accordance with the Crimea decision that Germany be compelled to compensate to the greatest possible extent for the loss and suffering that she has caused to the United Nations and for which the German people cannot escape responsibility, the following agreement on reparations was reached:

1. Reparation claims of the U.S.S.R. shall be met by removals from the zone of Germany occupied by the U.S.S.R. and from appropriate German external assets.

2. The U.S.S.R. undertakes to settle the reparation claims of Poland from its own share of reparations.

3. The reparation claims of the United States, the United Kingdom and other countries entitled to reparations shall be met from the western zones and from appropriate German external assets.

4. In addition to the reparations to be taken by the U.S.S.R. from its own zone of occupation, the U.S.S.R. shall receive additionally from the western zones:

(A) 15 per cent of such usable and complete industrial capital equipment, in the first place from the metallurgical, chemical and machine manufacturing industries, as is unnecessary for the German peace economy and should be removed from the western zones of Germany, in exchange for an equivalent value of food, coal, potash, zinc, timber, clay products, petroleum products, and such other commodities as may be agreed upon.

(B) 10 per cent of such industrial capital equipment as is unnecessary for the German peace economy and should be removed from the western zones, to be transferred to the Soviet Government on reparations account without payment or exchange of any kind in return.

Removals of equipment as provided in (A) and (B) above shall be made simultaneously.

5. The amount of equipment to be removed from the western zones on account of reparations must be determined within six months from now at the latest.

6. Removals of industrial capital equipment shall begin as soon as possible and shall be completed within two years from the determination specified in paragraph 5. The delivery of products covered by 4 (A) above shall begin as soon as possible and shall be made by the U. S. S. R. in agreed installments within five years of the date hereof. The determination of the amount and character of the industrial capital equipment unnecessary for the German peace economy and therefore available for reparations shall be made by the control council under policies fixed by the Allied Commission on Reparations, with the

participation of France, subject to the final approval of the zone commander in the zone from which the equipment is to be removed.

7. Prior to the fixing of the total amount of equipment subject to removal, advance deliveries shall be made in respect of such equipment as will be determined to be eligible for delivery in accordance with the procedure set forth in the last sentence of paragraph 6.

8. The Soviet Government renounces all claims in respect of reparations to shares of German enterprises which are located in the western zones of occupation in Germany as well as to German foreign assets in all countries except those specified in paragraph 9 below.

9. The Governments of the United Kingdom and the United States of America renounce their claims in respect of reparations to shares of German enterprises which are located in the eastern zone of occupation in Germany, as well as to German foreign assets in Bulgaria, Finland, Hungary, Rumania and Eastern Austria.

10. The Soviet Government makes no claims to gold captured by the Allied troops in Germany.

3. THE REPARATION SETTLEMENT AND THE PEACETIME ECONOMY OF GERMANY

Statement by the Secretary of State, December 12, 1945

Press Release 925

The Department of State has formulated a statement of its economic policy toward Germany for the guidance of the United States occupying authorities and has transmitted that statement to the War Department and to the governments of the other occupying powers. The fundamental policy was, of course, laid down at Potsdam. The purpose of this statement is to make clear the American conception of the meaning of the Potsdam Declaration as it bears on present and impending economic issues in Germany.

The position of Germany in the present world picture must be looked at broadly against the whole background of recent history. For six years Germany has ruthlessly imposed war and destruction on Europe and the world. The Nazis who ruled there for more than a decade are now defeated, discredited, and have been or are being rooted from positions of power. The final stages of war caused vast movements of Germans within their own country, and peace has permitted the return to their homes of millions of foreign laborers who had been enslaved in German mines and factories. The insistence of the Nazis on continuing the war to the bitter end caused enormous destruction to German cities, transport facilities, and other capital of the country. These are the basic reasons for the present position of Germany, a position for which the Germans themselves are primarily responsible. German industrial production will for some time be low and her people ill-fed even if there were no occupation and no reparations program.

The Potsdam Declaration involves three stages in the return of Germany to normal economic conditions. The first covers the German economy from the surrender of the armed forces last May to at least the end of the present winter. In this interval our broad purposes are to insure that our policy in Germany makes the maximum possible contribution to recovery in areas recently liberated from Germany and, positively, to set up a structure that will provide for the future recovery of Germany in conformity with the principles agreed at Potsdam.

Within these broad objectives four principal immediate aims are these:

First, to increase to the greatest possible extent the export of coal from Germany to liberated areas. The rate of economic recovery in Europe depends upon the coal supplies available over this winter; and it is our intention to maintain the policy of hastening the recovery of liberated areas, even at the cost of delaying recovery in Germany.

Second, to use the months before spring to set up and to set into motion, in conjunction with our Allies, the machinery necessary to execute the reparations and disarmament programs laid down and agreed at Potsdam. A considerable part of the statement just issued is directed to making clear the technical basis on which we believe the reparations calculation should be made. This calculation, which requires definition of the initial post-war German economy, must be completed before February 2, 1946.

Third, to set up German administrative agencies which would operate under close policy control of the occupying authorities in the fields of finance, transport, communications, foreign trade, and industry. Such agencies, explicitly required by the terms of the Potsdam agreement, must operate if Germany is to be treated as an economic unit, and if we are to move forward to German recovery and to the eventual termination of military occupation.

Fourth, to prevent mass starvation in Germany. Throughout Europe there are many areas where the level of diet is at or close to starvation. In terms of world supply and of food shipments from the United States, liberated areas must enjoy a higher priority than Germany throughout this first post-war winter. The United States policy, in collaboration with its Allies, is to see that sufficient food is available in Germany to avoid mass starvation. At the moment the calory level for the normal German consumer has been established at 1,550 per day. This requires substantial imports of foodstuffs into Germany, especially of wheat; and for its own zones of Germany and Berlin the United States is now importing wheat to achieve this level. The bulk of the German population has been eating more than 1,550 calories daily, either because they can supplement the ration from foodstuffs available in the countryside, or because their work justifies a ration level higher than that of the normal consumer, as in the case of coal miners. In the major cities, and especially Berlin, however, a food problem exists and is particularly severe during the winter months. One thousand, five hundred and fifty calories is not sufficient to sustain in health a population over a long period of time, but as a basic level for the normal consumer it should prevent mass starvation in Germany this winter. If a higher level for the normal consumer is judged to be required and if it is justified by food standards in liberated areas, the ration level in Germany may be raised by agreement among the four occupying powers.

In short, this will be an exceedingly hard winter for Germany, although only slightly more difficult than for certain of the liberated areas. A softening of American policy toward the feeding of German civilians and toward the allocation of coal exports from Germany, while it would ease the difficult task of the four occupying authorities, could largely be at the expense of the liberated areas. We are, however, constructively preparing for the second stage in German economic policy, which should begin some time next spring.

In this second stage it is envisaged that Germany will gradually recover. Simultaneously with the removal of plants under reparation, plants will be earmarked for retention; and, as fuel and raw materials become available, German industry which is permitted to remain will be gradually reactivated and the broken transport system revived. Although coal exports from Germany will continue, the probable expansion in coal output should permit larger allocations in coal to the German economy, after the end of the winter. German industrial production will then increase and German exports should begin to approach a level where they can finance necessary imports and gradually to repay the occupying powers for their outlays in the present emergency period.

The third stage of economic development will follow after the period of reparation removals which under the terms of the Potsdam Declaration must be completed by February 2, 1948. The resources left to Germany at that time will be available to promote improvement of the German standard of living to a level equal to that of the rest of continental Europe other than the Soviet Union and the United Kingdom. Housing and transport will recover more rapidly than in the previous stages of economic development. In general, the German people will during this period recover control over their economy subject to such residual limitations as the occupying powers decide to impose. These limitations, which will be determined by agreement among the occupying powers, should, in the opinion of this Government, be designed solely to prevent German rearmament and not to restrict or reduce the German standard of living.

In all these stages it must be borne in mind that the present occupying powers, as well as many other nations, have suffered severely from German aggression, have played a large role in the German defeat, and have an enduring interest in the post-war settlement of Germany. The settlement agreed at Potsdam requires the shifting of boundaries in the East, and the movement of several million Germans from other countries. That settlement also requires, in the interests of European rehabilitation and security, the removal from Germany of a large part of the industrial war-making capacity, which never served the German civilian but which, from 1933 on, served to prepare for war and to make war. In the words of the Potsdam Declaration:

> "It is not the intention of the Allies to destroy or enslave the German people. It is the intention of the Allies that the German people be given the opportunity to prepare for the eventual reconstruction of their life on a democratic and peaceful basis. If their own efforts are steadily directed to this end, it will be possible for them in due course to take their place among the free and peaceful peoples of the world."

4. RESTATEMENT OF U.S. POLICY ON GERMANY

Address by the Secretary of State, Delivered in Stuttgart, Germany, September 6, 1946

Excerpt

. . . .

German militarism and Nazism have devastated twice in our generation the lands of Germany's neighbors. It is fair and just that Germany should do her part to repair that devastation. Most of the victims of Nazi aggression were before the war less well off than Germany. They should not be expected by Germany to bear, unaided, the major costs of Nazi aggression.

The United States, therefore, is prepared to carry out fully the principles outlined in the Potsdam Agreement on demilitarization and reparations. However, there should be changes in the levels of industry agreed upon by the Allied Control Commission if Germany is not to be administered as an economic unit as the Potsdam Agreement contemplates and requires.

The basis of the Potsdam Agreement was that, as part of a combined program of demilitarization and reparations, Germany's war potential should be reduced by elimination and removal of her war industries and the reduction and removal of heavy industrial plants. It was contemplated this should be done to the point that Germany would be left with levels of industry capable of maintaining in Germany average European living standards without assistance from other countries.

The plants so to be removed were to be delivered as reparations to the Allies. The plants to be removed from the Soviet zone would go to the Soviet Union and Poland and the plants to be removed from the western zones would go in part to the Soviet Union but in the main to the western Allies. Provision was also made for the distribution of Germany's foreign assets among the Allies.

After considerable discussion the Allies agreed upon levels to which the principal German industries should be reduced in order to carry out the Potsdam Agreement. These levels were agreed to upon the assumption that the indigenous resources of Germany were to be available for distribution on an equitable basis for all of the Germans in Germany and that products not necessary for use in Germany would be available for export in order to pay for necessary imports.

In fixing the levels of industry no allowance was made for reparations from current production. Reparations from current production would be wholly incompatible with the levels of industry now established under the Potsdam Agreement.

Obviously, higher levels of industry would have had to be fixed if reparations from current production were contemplated. The levels of industry fixed are only sufficient to enable the German people to become self-supporting and to maintain living standards approximating the average European living conditions.

That principle involves serious hardships for the German people, but it only requires them to share the hardships which Nazi aggression imposed on the average European.

The German people were not denied, however, the possibility of improving their lot by hard work over the years. Industrial growth and progress were not denied them. Being obliged to start again like the people of other devastated countries, with a peacetime economy not able to provide them more than the average European standard, the German people were not to be denied the right to use such savings as they might be able to accumulate by hard work and frugal living to build up their industries for peaceful purposes.

That was the principle of reparations to which President Truman agreed at Potsdam. And the United States will not agree to the taking from Germany of greater reparations than was provided by the Potsdam Agreement.

The carrying out of the Potsdam Agreement has, however, been obstructed by the failure of the Allied Control Council to take the necessary steps to enable the German economy to function as an economic unit. Essential central German administrative departments have not been established, although they are expressly required by the Potsdam Agreement.

The equitable distribution of essential commodities between the several zones so as to produce a balanced economy throughout Germany and reduce the need for imports has not been arranged, although that too is expressly required by the Potsdam Agreement.

The working out of a balanced economy throughout Germany to provide the necessary means to pay for approved imports has not been accomplished, although that too is expressly required by the Potsdam Agreement.

The United States is firmly of the belief that Germany should be administered as an economic unit and that zonal barriers should be completely obliterated so far as the economic life and activity in Germany are concerned.

The conditions which now exist in Germany make it impossible for industrial production to reach the levels which the occupying powers agreed were essential for a minimum German peacetime economy. Obviously, if the agreed levels of industry are to be reached, we cannot continue to restrict the free exchange of commodities, persons, and ideas throughout Germany. The barriers between the four zones of Germany are far more difficult to surmount than those between normal independent states.

The time has come when the zonal boundaries should be regarded as defining only the areas to be occupied for security purposes by the armed forces of the occupying powers and not as self-contained economic or political units.

That was the course of development envisaged by the Potsdam Agreement, and that is the course of development which the American Government intends to follow to the full limit of its authority. It has formally announced that it is its intention to unify the economy of its own zone with any or all of the other zones willing to participate in the unification.

So far only the British Government has agreed to let its zone participate. We deeply appreciate their cooperation. Of course, this policy of unification is not intended to exclude the governments not now willing to join. The unification will be open to them at any time they wish to join.

We favor the economic unification of Germany. If complete unification cannot be secured, we shall do everything in our power to secure the maximum possible unification.

Important as the economic unification is for the recovery of Germany and of Europe, the German people must recognize that the basic cause of their suffering and distress is the war which the Nazi dictatorship brought upon the world.

But just because suffering and distress in Germany are inevitable, the American Government is unwilling to accept responsibility for the needless aggravation of economic distress that is caused by the failure of the Allied Control Council to agree to give the German people a chance to solve some of their most urgent economic problems.

So far as many vital questions are concerned, the Control Council is neither governing Germany nor allowing Germany to govern itself.

A common financial policy is essential for the successful rehabilitation of Germany. Runaway inflation accompanied by economic paralysis is almost certain to develop unless there is a common financial policy directed to the control of inflation. A program of drastic fiscal reform to reduce currency and monetary claims, to revise the debt structure, and to place Germany on a sound financial basis is urgently required.

The United States has worked hard to develop such a program, but fully coordinated measures must be accepted and applied uniformly to all zones if ruinous inflation is to be prevented. A central agency of finance is obviously necessary to carry out any such program effectively.

It is also essential that transportation, communications, and postal services should be organized throughout Germany without regard to zonal barriers. The nation-wide organization of these public services was contemplated by the Potsdam Agreement. Twelve months have passed and nothing has been done.

Germany needs all the food she can produce. Before the war she could not produce enough food for her population. The area of Germany has been reduced. The population in Silesia, for instance, has been forced back into a restricted Germany. Armies of occupation and displaced persons increase demands while the lack of farm machinery and fertilizer reduces supplies. To secure the greatest possible production of food and the most effective use and distribution of the food that can be produced, a central administrative department for agriculture should be set up and allowed to function without delay.

Similarly, there is urgent need for the setting up of a central German administrative agency for industry and foreign trade. While Germany must be prepared to share her coal and steel with the liberated countries of Europe dependent upon those supplies, Germany must be enabled to use her skills and her energies to increase her industrial production and to organize the most effective use of her raw materials.

Germany must be given a chance to export goods in order to import enough to make her economy self-sustaining. Germany is a part of Europe, and recovery in Europe, and particularly in the states adjoining Germany, will be slow indeed if Germany with her great resources of iron and coal is turned into a poorhouse.

. . . .

5. MERGER OF U.S. AND BRITISH ZONES

Joint Statement by Secretary of State Byrnes and Foreign Secretary Bevin

Press Release 858 *December 3, 1946*

The Secretary of State, the Honorable James F. Byrnes, and the Right Honorable Ernest Bevin, the British Foreign Secretary, made public today the agreement which they have signed on behalf of their respective Governments which provides for the full economic integration of the United States and the United Kingdom zones of occupation in Germany and comes into effect on January 1, 1947.

The two Secretaries of State declared that they considered this agreement a first step in the economic unification of Germany as a whole which they hope will lead to discussions with the other occupying powers for the extension of these or similar arrangements to the other zones of occupation.

They stated that the United States and the United Kingdom have become equal partners in treating the two zones as a single area.

The agreement contemplates an economic program designed to make the area self-sustaining in three years. By this program it is expected not only to decrease the costs of occupation for the area but also to make possible the gradual restoration of a healthy non-aggressive German economy which will contribute materially to the economic stability of Europe.

Text of the agreement follows:

2 December, 1946

MEMORANDUM OF AGREEMENT

Representatives of the two Governments have met at Washington to discuss the questions arising out of the economic fusion of their zones of occupation in Germany. They have taken as the basis of their discussion the fact that the aim of the two Governments is to achieve the economic unity of Germany as a whole, in accordance with the agreement reached at Potsdam on 2nd August, 1945. The arrangements set out hereunder, for the United States and United Kingdom zones, should be regarded as the first step towards the achievement of the economic unity of Germany as a whole in accordance with that agreement. The two Governments are ready at any time to enter into discussions with either of the other occupying powers with a view to the extension of these arrangements to their zones of occupation.

On this basis, agreement has been reached on the following paragraphs:

1. *Date of inception.* This agreement for the economic fusion of the two zones shall take effect on 1st January, 1947.

2. *Pooling of resources.* The two zones shall be treated as a single area for all economic purposes. The indigenous resources of the area and all imports into the area, including food, shall be pooled in order to produce a common standard of living.

3. *German administrative agencies.* The United States and United Kingdom Commanders-in-Chief are responsible for setting up under their joint control the German administrative agencies necessary to the economic unification of the two zones.

4. *Agency for foreign trade.* Responsibility for foreign trade will rest initially with the Joint Export–Import Agency (United States–United Kingdom) or such other agency as may be established by the two Commanders-in-Chief. This responsibility shall be transferred to the German administrative agency for foreign trade under joint supervision to the maximum extent permitted by the restrictions existing in foreign countries at any given period. (All references in this agreement to the Joint Export–Import Agency shall apply to this agency or to any agency established by the two Commanders-in-Chief to succeed it).

5. *Basis of economic planning.* The aim of the two Governments is the achievement by the end of 1949 of a self-sustaining economy for the area.

6. *Sharing of financial responsibility.* Subject to the provision of the necessary appropriations, the Governments of the United States and the United Kingdom will become responsible on an equal basis for costs of approved imports brought into account after 31st December, 1946 (including stocks on hand financed by the respective Governments), insofar as these cannot be paid for from other sources, in accordance with the following provisions:

(a) For this purpose the imports of the area shall be divided into two categories: those imports required to prevent disease and unrest (Category A), which are financed in decreasing amounts by appropriated funds; and those further imports (including raw materials), however financed, which will be required if the economic state of the area is to recover to an extent sufficient to achieve the aim laid down in paragraph 5 of this Agreement (Category B).

(b) It is the intention of the two Governments that the full cost of Category A imports shall be defrayed as soon as possible, subject to sub-paragraph (c) below, from the proceeds of exports. Any portion of the cost of Category A imports which is not met by export proceeds will be defrayed by the two Governments in equal shares from appropriated funds.

(c) The proceeds of exports from the area shall be collected by the Joint Export–Import Agency and shall be used primarily for the provision of Category B imports until there is a surplus of export proceeds over the cost of these imports.

(d) In order to provide funds to procure Category B imports:

(i) The Government of the United Kingdom will make available to the Joint Export–Import Agency the sum of $29,300,000 in settlement of the understanding reached in September, 1945, for the pooling of the proceeds of exports from the two zones in proportion to import expenditures, which shall be credited to the United States contribution.

(ii) In addition to this sum the accumulated proceeds of exports from the United States Zone (estimated at $14,500,000), will be made available to the Joint Export–Import Agency for the purchase of Category B imports.

(iii) The Government of the United Kingdom will provide Category B goods at the request of the Joint Export–Import Agency to a value equal to that of the United States contribution under sub-paragraphs (i) and (ii) above.

(iv) The Governments of the United States and the United Kingdom will make available to the Joint Export–Import Agency in like amounts their respective shares of the sum to be used for financing purchases of essential commodities for the German economy under the provisions, and upon ratification by the Government of Sweden, of the accord dated 18th July, 1946, between the Governments of the United States, the United Kingdom and France on the one hand and of Sweden on the other.

(v) Any further sums which are agreed by the Joint Export-Import Agency to be required for the purchase of Category B imports shall be provided by the two Governments on an equal basis in such manner as they may agree. To the extent that either Government advances sums for the purchase of raw materials for processing and re-export on special terms as regards security and repayment, the other Government may advance equal sums on similar terms.

(e) The reimbursement of costs incurred by the two Governments for their two zones before 1st January, 1947, and for the area thereafter, shall be recovered from future German exports in the shortest practicable time consistent with the rebuilding of the German economy on healthy, non-aggressive lines.

7. *Relaxation of barriers to trade.* With a view to facilitating the expansion of German exports, barriers in the way of trade with Germany should be removed as rapidly as world conditions permit. To the same end the establishment of an exchange value for the mark should be undertaken as soon as this is practicable; financial reform should be effected in Germany at an early date; and the exchange of full technical and business communications between Germany and other countries should be facilitated as soon as possible. Potential buyers of German goods should be provided access to both zones to the full extent that facilities permit, and normal business channels should be restored as soon as possible.

8. *Procurement.* The determination of import requirements shall be the responsibility of the Joint Export–Import Agency. The procurement of these requirements shall be dealt with as follows:

(i) Procurement of Category A imports to the extent that they are financed from appropriated funds of either Government shall be the responsibility of that Government.

(ii) Procurement of Category B imports and of Category A imports to the extent that they are not financed by appropriate funds shall be the responsibility of the Joint Export–Import Agency, with such assistance from the two Governments as may be desired.

Unless otherwise agreed, subject to the provisions of this paragraph, procurement shall be from the most economical source of supply. However, the sources shall be selected to the fullest extent practicable, so as to minimize the drain on the dollar resources of the United Kingdom.

The two Governments will establish a joint committee in Washington with the following responsibilities:

(a) In the case of commodities in short supply, to support the requirements of the Joint Export–Import Agency before the appropriate authorities.

(b) To determine, where necessary, sources of supply and to designate procurement agencies having regard to the financial responsibilities and exchange resources of the two Governments.

With respect to sub-paragraph (a) above, the two Governments agree to assist the committee in obtaining the requirements of the Joint Export–Import Agency having regard to all other legitimate claims on available world supply. With respect to sub-paragraph (b) above, where the financial responsibility rests with one Government and the designated source of supply is the territory under the authority of the other Government, the latter, if so requested, will accept responsibility for procuring those supplies as agent for the former.

9. *Currency and banking arrangements.* The Bipartite Finance Committee (United States–United Kingdom) will be authorized to open accounts with approved banks of the countries in which the Joint Export–Import Agency is operating, provided that agreements are negotiated with those countries for credit balances to be transferred on demand into dollars or sterling. The Bipartite Finance Committee will be authorized to accept payment of balances in either dollars or sterling, whichever, in the judgment of the Joint Export–Import Agency, may be better utilized in financing essential imports.

10. *Food.* The two Governments will support, to the full extent that appropriated and other funds will permit, an increase in the present ration standard to 1800 calories for the normal consumer as soon as the world food supply permits. This standard is accepted as the minimum which will support a reasonable economic recovery in Germany. However, in view of the current world food supply, a ration standard of 1550 calories for the normal consumer must be accepted at present.

11. *Imports for displaced persons.* Subject to any international arrangements which may subsequently be made for the maintenance of displaced persons, the maintenance of displaced persons within both zones from the German economy shall not exceed the maintenance of German citizens from this economy. Supplementary rations and other benefits which may be provided for displaced persons in excess of those available to German citizens must be brought into Germany without cost to the German economy.

12. *Duration.* It is the intention of the two Governments that this agreement shall govern their mutual arrangements for the economic administration of the area pending agreement for the treatment of Germany as an economic unit or until amended by mutual agreement. It shall be reviewed at yearly intervals.

JAMES F. BYRNES
ERNEST BEVIN

Appendix H

LAW, POLITICS, AND ADMINISTRATION

Appendix H

LAW, POLITICS, AND ADMINISTRATION

1. POTSDAM AGREEMENT

Excerpts *Released August 2, 1945*

• • • • • • •

III. Germany

• • • • • • •

It is not the intention of the Allies to destroy or enslave the German people. It is the intention of the Allies that the German people be given the opportunity to prepare for the eventual reconstruction of their life on a democratic and peaceful basis. If their own efforts are steadily directed to this end, it will be possible for them in due course to take their place among the free and peaceful peoples of the world.

A. POLITICAL PRINCIPLES

• • • • • • •

8. The judicial system will be reorganized in accordance with the principles of democracy, of justice under law, and of equal rights for all citizens without distinction of race, nationality or religion.

9. The administration of affairs in Germany should be directed towards the decentralization of the political structure and the development of local responsibility. To this end:

(i) Local self-government shall be restored throughout Germany on democratic principles and in particular through elective councils as rapidly as is consistent with military security and the purposes of military occupation;

(ii) All democratic political parties with rights of assembly and of public discussion shall be allowed and encouraged throughout Germany;

(iii) Representative and elective principles shall be introduced into regional, provincial and state (land) administration as rapidly as may be justified by the successful application of these principles in local self-government;

(iv) For the time being no central German government shall be established. Notwithstanding this, however, certain essential central German administrative departments, headed by state secretaries, shall be established, particularly in the fields of finance, transport, communications, foreign trade and industry. Such departments will act under the direction of the Control Council.

10. Subject to the necessity for maintaining military security, freedom of speech, press and religion shall be permitted, and religious institutions shall be respected.

. . . .

2. CONTROL COUNCIL PROCLAMATION NO. 3

Fundamental Principles of Judicial Reform

[October 20, 1945]

By the elimination of the Hitler tyranny by the Allied Powers the terrorist system of Nazi Courts has been liquidated. It is necessary to establish a new democratic judicial system based on the achievements of democracy, civilization and justice. The Control Council therefore proclaims the following fundamental principles of judicial reform which shall be applied throughout Germany.

I. Equality before the Law

All persons are equal before the law. No person, whatever his race, nationality or religion, shall be deprived of his legal rights.

II. Guarantees of the Rights of the Accused

1. No person shall be deprived of life, liberty or property without due process of law.
2. Criminal responsibility shall be determined only for offences provided by law.
3. Determination by any court of any crime "by analogy" or by so-called "sound popular instinct", as heretofore provided in the German Criminal Code, is prohibited.
4. In any criminal prosecution the accused shall have the rights recognized by democratic law, namely the right to a speedy and public trial and to be informed of the nature and cause of the accusation, the right to be confronted with witnesses against him and to have process for obtaining the witnesses in his favour and the right to have the assistance of counsel for his defence. Excessive or inhuman punishments or any not provided by law will not be inflicted.
5. Sentences on persons convicted under the Hitler Regime on political, racial or religious grounds must be quashed.

III. Liquidation of Extraordinary Hitler Courts

The People's Court, Courts of the N.S.D.A.P. and Special Courts are abolished and their re-establishment prohibited.

IV. Independence of the Judiciary

1. Judges will be independent from executive control when exercising their functions and owe obedience only to the law.

2. Access to judicial functions will be open to all who accept democratic principles without account of their race, social origin or religion. The promotion of judges will be based solely on merit and legal qualifications.

V. Concluding Clause

Justice will be administered in Germany in accordance with the principles of this proclamation by a system of Ordinary German Courts.

Done at Berlin 20 October 1945.

P. Koenig
Général de Corps d'Armée
G. Zhukov
Marshal of the Soviet Union
Dwight D. Eisenhower
General
B. H. Robertson
Lieutenant General
for F. M. Montgomery

3. CONTROL COUNCIL LAW NO. 4

Reorganisation of the German Judicial System

[October 30, 1945]

The Control Council, in accordance with its Proclamation to the German people, dated 20 October 1945, deciding that the German judicial system must be reorganised on the basis of the principles of democracy, legality and equality before the law of the citizens, without distinction of race, nationality or religion, enacts as follows:

ARTICLE I

Reorganisation of the German Courts, will in principle, take place in conformity with the Law concerning the Structure of the Judiciary of 27 January 1877, Edition of 22 March 1924 (RGBl 1/299). The following system of ordinary courts is to be re-established: Amtsgerichte, Landgerichte, and Oberlandesgerichte.

ARTICLE II

The jurisdiction Amtsgerichte and Landgerichte in civil and criminal cases will in general be determined in conformity with the law in force on 30 January 1933: however, the civil jurisdiction of the Amtsgerichte will be extended to claim of a value not exceeding RM 2000.

The Landgerichte will have appellate jurisdiction over decisions of the Amtsgerichte.

The Oberlandesgerichte will have no original jurisdiction but will have final appellate jurisdiction over decisions of the Landgerichte in civil cases; they will have the right of review on question of law (Revision) over decisions of Amtsgerichte and Landgerichte in criminal cases as provided by law.

ARTICLE III

Jurisdiction of German Courts shall extend to all cases both civil and criminal with the following exceptions:

(a) Criminal offenses committed against the Allied Occupation forces;

(b) Criminal offenses committed by Nazis or any other persons against citizens of Allied nations and their property, as well as attempts directed towards the re-establishment of the Nazi regime, and the activity of the Nazi organisations;

(c) Criminal offenses involving military personnel of Allied Forces or citizens of Allied nations;

(d) Other selected civil and criminal cases withdrawn from the jurisdiction of German Courts, as directed by the Allied Military Command;

(e) When an offense committed is not of such a nature as to compromise the security of the Allied Forces, the Military Command may leave it to the jurisdiction of German Courts.

ARTICLE IV

To effect the reorganisation of the judicial system all former members of the Nazi Party who have been more than nominal participants in its activities and all other persons who directly followed the punitive practices of the Hitler regime must be dismissed from appointments as judges and prosecutors and will not be admitted to these appointments.

ARTICLE V

In carrying out this law, it is left to the discretion of the Military Command gradually to bring the jurisdiction of German courts into conformity with this law.

ARTICLE VI

This law will come into force from the date of its promulgation. The Military Commanders of Zones are charged with its execution.

Done at Berlin, 30 October 1945.

P. Koenig
Général de Corps d'Armée
G. Zhukov
Marshal of the Soviet Union
Dwight D. Eisenhower
General
Bernard L. Montgomery, KCB, DSO
Field Marshal

4. THE LÄNDERRAT

Statute of the Länderrat of the U.S. Zone of Occupation

[As revised and approved on June 4, 1946]

ARTICLE 1

1. The Minister Presidents of Bavaria, Greater Hesse and Württemberg-Baden form a permanent council. This will be called "*Länderrat* (Council of States) of the U.S. Zone of Occupation". The Länderrat has its seat in Stuttgart.

ARTICLE 2

1. The Länderrat has the function to solve jointly and within the framework of Military Government policy problems affecting more than one Land, to remove difficulties in the relations between the Länder; to assure the desirable coordination of developments in the political, social, economic, and cultural life of the Länder and to set in order official interzonal communications.

2. Provisions relative to the establishment of joint institutions for the U.S. Zone of Occupation (Zonal Agencies) shall be set forth by agreement between the Länder or by a special statute of the Länderrat.

3. The heads of the zonal establishments are responsible to the Länderrat which will exercise its supervisory authority and issue instructions through the Secretary General. The heads of zonal establishments shall report to the Länderrat at least once a month, through the Secretary General, on the implementation of instructions received and measures taken.

ARTICLE 3

1. The Länderrat will meet regularly the first Tuesday of each month. Upon request of Military Government or one of the Minister Presidents, special meetings may be held ad interim. Regular place for the meetings will be Stuttgart.

ARTICLE 4

1. The Minister Presidents of the Länder, the members of the Directorate (Article 15) and the heads of the Land Liaison Offices will participate in the meetings of the Länderrat. Each Minister President may call in for his assistance one deputy, the Minister concerned with the matter under discussion, and the necessary referents. In agreement with the Secretary General, the heads of the zonal establishments may participate in the meetings.

ARTICLE 5

Each Minister President shall serve successively as chairman of the Länderrat for periods of three months.

ARTICLE 6

Decisions will be made by the Minister Presidents personally and require unanimity. If a Minister President is prevented from attending a meeting, he may authorize a member of his cabinet to vote for him. On urgent matters coming up between Länderrat meetings (Article 4), the Secretary General, may obtain, through the Länderrat plenipotentiaries, the decision of the Minister Presidents in writing. These decisions will be decisions of the Länderrat. All interim decisions will be presented to the Länderrat at its next meeting.

ARTICLE 7

To make decisions on internal affairs (personnel matters, organization, budget, technical matters of the secretariate general, etc.), internal meetings of the Länderrat may be held.

ARTICLE 8

1. A Secretariate shall be established at the seat of the Länderrat.
2. The secretariate shall be composed of the Secretary General and the personnel required.
3. The Secretary General will be appointed by the Minister Presidents, and the department heads and referents by the Minister Presidents upon his proposal. The Minister Presidents in conjunction with the Secretary General will appoint his deputy from the ranks of the department heads. All employees of the Secretariate are Länderrat employees.
4. The Secretary General is the head of the Secretariate. He will maintain contact with the Director of the Regional Government Co-

ordinating Office and will represent the Secretariate in external relations.

5. The Secretary General will be responsible to the Minister Presidents for the management of the secretariate. He will be responsible for preparing the meetings of the Länderrat in cooperation with the Regional Government Coordinating Office and the Länderrat plenipotentiaries, for observing adherence to the Länderrat and Committee statutes and for observing implementation of all decisions of the Länderrat. The Secretary General will deal with all matters assigned to the Länderrat by the Regional Government Coordinating Office.

ARTICLE 9

1. At the seat of the Länderrat, each Land shall be represented by a permanent plenipotentiary of the Minister President (*Länderratsbevollmächtigter*).

2. All Communication between the Secretariate and the Land Governments will be maintained through the Länderrat Plenipotentiaries.

3. The Länderrat Plenipotentiary will represent the interests of his Land with the Länderrat; in this task he will be assisted by the Secretary General.

ARTICLE 10

The Minister Presidents will establish at the seat of their government, a Land Liaison Office of the Länderrat, which will deal with all Länderrat matters. Direct communication between the Land authorities and the Länderrat and its institutions, unless authorized by special regulations, will not be permitted.

ARTICLE 11

1. The representatives of the Länderrat in other zones will be appointed by the Minister Presidents, and receive their general instructions and current orders from the Minister Presidents through the Secretary General.

2. Insofar as other zones and Länder appoint representatives to the Länderrat of the U. S. Zone, their admission must be approved by the Minister Presidents.

3. The Secretary General informs the Minister Presidents of all important negotiations with the representatives of other zones.

ARTICLE 12

1. The costs, incurred by the Länderrat, will be borne proportionally by the participating Länder. The shares in the costs will be established by special agreement.

2. Three months prior to the beginning of each fiscal year, the Secretary General will submit to the Länderrat a draft budget for the coming fiscal year. Three months after the fiscal year, he will submit

an account for the past year. The account will be audited by an auditing board to be designated by the Minister Presidents.

3. The Directorate (Article 15) will confer about the budget of the Länderrat. It will, in particular, approve in advance major expenses, not provided for in the budget.

ARTICLE 13

Länderrat decisions shall be placed into effect by the Länder not later than one month after adoption. Länderrat decisions which require approval by Military Government, shall be placed into effect by the Länder not later than one month after approval.

ARTICLE 14

1. For the preparation of Länderrat decisions, committees and, if necessary, subcommittees will be established with the Länderrat.

2. Proposals for the establishment of committees and subcommittees may be submitted by the Länder and/or the Secretary General. Committees may submit to the Secretary General proposals for the establishment of committees and subcommittees. Committees shall also be established upon request of the Regional Government Coordinating Office.

3. The committees and subcommittees will be composed of one representative of each Land Government, entitled to vote, and one deputy for each of these representatives; they will be appointed and recalled by their respective Minister Presidents.

4. Each Land may call in experts to participate in Committee work without having the right to vote.

5. Decisions and proposals of committees to the Länderrat must be unanimous. Without prejudice to the provisions of Article 15, Committee decisions and proposals take binding effect only by decision of the Länderrat and, insofar as necessary, approval of Military Government.

6. The functions and competences of committees shall be set forth by a Länderrat statute which shall apply to all committees.

ARTICLE 15

In order to strengthen the effectiveness and efficiency of the Länderrat, a Directorate (*Direktorium*) shall be established at the seat of the Länderrat, as follows:

I. The Directorate shall consist of:

1. One special delegate (*Sonderbeauftragter*) for Länderrat affairs from each of the 3 Land Governments. The special delegate will participate in the cabinet meetings of his respective Land government. His office will be located at the seat of his Land Government;

2. The three Länderrat Plenipotentiaries (*Länderratbevollmächtigten*)

3. The Secretary General.

II. The functions of the Directorate will be, as follows:

1. To make final decisions:

a. on matters requiring immediate action, and not involving basic principles,

b. on Committee decisions which do not involve basic principles, nor are of major importance.

2. To review all other Committee decisions and proposals prior to their submission to the Länderrat.

3. To confer about the budget in accordance with para 3, Article 12.

III. (1) Chairman of the Directorate will be the special delegate (*Sonderbeauftragter*) of the Land whose Minister President presides over the Länderrat in accordance with Article 5. The Secretary General will be responsible for the administrative functions connected with the Directorate.

(2) Each member of the Directorate has one vote.

(3) Unanimous decisions will become effective immediately. Decisions not passed unanimously, will become effective only if not vetoed within three days by one of the three Minister Presidents. The three day period begins where the decision has been received by the individual Minister President (Land Liaison Office).

(4) If decisions of the Directorate become effective, they will be decisions of the Länderrat. All such decisions will be presented to the Länderrat at its next meeting.

IV. The Directorate will comment on Control Council measures referred to the Länderrat for consideration by the Regional Government Coordinating Office. The functional Ministers of the Länder will participate in the discussions of the Directorate; as regards its functional Ministers, each Land will have only one vote. The provisions, specified under para III above, will be applied insofar as applicable.

V. The Directorate will meet at least once a week. It may call in the heads of zonal establishments and experts who will act in an advisory capacity.

VI. The provisions of Article 15 will remain in force until 31 December 1946; their validity may be extended by unanimous decision of the three Minister Presidents.

ARTICLE 16

These statutes replace the Länderrat Organizational Plan of 6 November 1945 and will go into effect upon approval by Military Government.

5. PRESS RELEASE, OMGUS

Civil Service Codes

Press Release *August 28, 1946*

A civil service system patterned in its basic democratic conceptions after that in the United States will be adopted shortly by each of the three U.S. Länder in occupied Germany. . . .

. . . the new system is in line with the U.S. policy of decentralization and the strengthening of the Länder. Although each Land—Bavaria, Greater Hesse and Wuerttemberg-Baden—was instructed to adopt its own civil service code, all three will embrace the basic principles of democratizing civil service in Germany. In devising their own system, German civil service officials have been given considerable freedom but have been required to completely denazify the civil service and introduce democratic ideas.

Each code will place German civil service on a strictly merit basis, enabling all officials and employees who are employed full time by the German governmental unit or agency to qualify for permanent civil service positions. At the same time, everyone who has a reasonable chance of performing duties of a government position will be given equal opportunity for appointment or promotion to that position. The new system will bring about 80% of government employees under civil service. During the Nazi regime, only about 20% were so classified.

. . . the codes will provide machinery whereby every civil service employee may have his grievances given fair and impartial consideration. This is an innovation in Germany where every civil servant had to "kow-tow" to his superior.

The new codes will prohibit civil servants from engaging in political activities except membership in a political party, the right to express an opinion as a citizen, and to vote. A civil servant may run for an elective office providing he resigns or takes a leave of absence from his civil service position.

The new codes also will prohibit any discrimination because of sex, religion, or race. Provision also shall be made by every official agency, no matter how small, to make sure that the press and other agencies of public information are afforded the opportunity to inform themselves and have adequate access to policy-making officials.

The new civil service system in each Land also will prohibit the maintaining of secret personnel files. Under the Weimar constitution, secret personnel files were prohibited, but they were used extensively during the Nazi regime.

The code in each Land will be administered by a Civil Service Department in which will be a commission whose members will be persons in sympathy with the application of merit principles to public employment and not politicians. The commission will determine policy. A personnel director will be appointed to administer the personnel system.

In addition, each code defines the rights and privileges of civil servants, the method of their removal, release or retirement, and the organization powers and duties of the Land Civil Service Department.

One of the results of the newly-adopted system will be the conferring of permanent civil service status on thousands of emergency German appointees of Military Government throughout the American Zone of Germany. In conferring civil service status on employees appointed since the occupation, qualifying, and not competitive, examinations will be given these candidates.

The new civil service codes abstract all Nazi and militaristic philosophies from civil service in Germany. Under the old system, civil service was broken up into five categories and, in large, limited promotions of the worker to jobs within his respective category. The five grades were: Lower Service (*Der einfache Dienst*), Intermediate Service (*Der mittlere Dienst*), Upper Service (*Der gehobene Dienst*), Higher Service (*Der Hoehere Dienst*), and, for "preferred" employees, Political Civil Servants (*Politische Beamte*).

A Prussian ordinance of 11 July 1849, perpetuated by the Nazi Regime, created the class of public officials later to be known as Political Civil Servants. They held key positions connected with the execution of policy and were, therefore, given special confidence of the political party or parties in power. Political civil servants held office at the pleasure of the Fuehrer and were subject to immediate removal without cause and without hearing or investigation.

Positions coming under this "privileged class" included: State Secretaries (*Staatssekretaere*), Ministerial Directors (*Ministerialdirektoren*), press officials at higher government agencies (*Pressereferenten*), Oberburgermeister and City President of Berlin, State Prosecutors (*Staatsanwaelte*), Police President (*Polizeipraesidenten*), and Police Directors (*Polizeidirektoren*).

Candidates for positions in the Higher Service, which included key jobs in government administration down to, for example, administrative head of a city tax district, were required to have the equivalent of a PHD degree. Higher civil service was much coveted because it provided a lifetime job and considerable prestige.

The old German system offered military personnel special privileges in appointments and promotions:

1. Intermediate: Military candidates had to be placed in nine out of ten vacancies, and a severely-wounded candidate in every fifth vacant position.
2. Upper: Every third vacant position had to be filled by a military candidate.
3. Higher: Military personnel were eligible if they possessed Certificate No. 2 of the Wehrmacht Technical School, and were proficient in German shorthand. (The latter requisite was required of all candidates).
4. Political: Categories of Wehrmacht officials designated by Hitler, received "privileged" appointments. Special civil service treatment also was granted former noncommissioned officers of the German armed forces and labor service with honorable discharges, and to children from large families within these two groups. NCO's among those so-called "special candidates" who served twelve or more years in the armed or labor services took precedence.

The newly-adopted civil service codes provide no special privileges for former German military personnel, or other categories.

In the United States it has been estimated that one out of every nine persons works for the Government. In Germany . . . [the percentage was much greater] because the government controlled almost every phase of activity that was a part of the community's basic existence: All public utilities (gas, electric, water, transportation systems, including the U-Bahn); had very heavy holdings in industry (the Hermann Goering Works, employing some 600,000 workers, was almost totally owned by the Reich); operated all opera houses and even some movie houses and breweries.

6. RESTATEMENT OF U.S. POLICY ON GERMANY

Address by the Secretary of State, Delivered in Stuttgart, Germany, September 6, 1946

Excerpts

. . . .

When the ruthless Nazi dictatorship was forced to surrender unconditionally, there was no German government with which the Allies could deal. The Allies had temporarily to take over the responsibilities of the shattered German state, which the Nazi dictatorship had cut off from any genuine accountability to the German people. The Allies could not leave the leaders or minions of Nazism in key positions ready to reassert their evil influence at the first opportunity. They had to go.

But it never was the intention of the American Government to deny to the German people the right to manage their own internal affairs as soon as they were able to do so in a democratic way with genuine respect for human rights and fundamental freedoms.

The Potsdam Agreement, concluded only a few months after the surrender, bound the occupying powers to restore local self-government and to introduce elective and representative principles into the regional, provincial, and state administration as rapidly as was consistent with military security and the purposes of the military occupation.

The principal purposes of the military occupation were and are to demilitarize and de-Nazify Germany but not to raise artificial barriers to the efforts of the German people to resume their peacetime economic life.

The Nazi war criminals were to be punished for the suffering they brought to the world. The policy of reparations and industrial disarmament prescribed in the Potsdam Agreement was to be carried out. But the purpose of the occupation did not contemplate a prolonged foreign dictatorship of Germany's peacetime economy or a prolonged foreign dictatorship of Germany's internal political life. The Potsdam Agreement expressly bound the occupying powers to start building a political democracy from the ground up.

The Potsdam Agreement did not provide that there should never be a central German government; it merely provided that for the time being there should be no central German government. Certainly this only meant that no central government should be established until some sort of democracy was rooted in the soil of Germany and some sense of local responsibility developed.

The Potsdam Agreement wisely provided that administration of the affairs of Germany should be directed toward decentralization of the political structure and the development of local responsibility. This was not intended to prevent progress toward a central government with the powers necessary to deal with matters which would be dealt with on a nation-wide basis. But it was intended to prevent the establishment of a strong central government dominating the German people instead of being responsible to their democratic will.

It is the view of the American Government that the German people throughout Germany, under proper safeguards, should now be given the primary responsibility for the running of their own affairs.

More than a year has passed since hostilities ceased. The millions of German people should not be forced to live in doubt as to their fate. It is the view of the American Government that the Allies should, without delay, make clear to the German people the essential terms of the peace settlement which they expect the German people to accept and observe. It is our view that the German people should now be permitted and helped to make the necessary preparations for setting up of a democratic German government which can accept and observe these terms.

From now on the thoughtful people of the world will judge Allied action in Germany not by Allied promises but by Allied performances. The American Government has supported and will continue to support the necessary measures to de-Nazify and demilitarize Germany, but it does not believe that large armies of foreign soldiers or alien bureaucrats, however well motivated and disciplined, are in the long run the most reliable guardians of another country's democracy.

All that the Allied governments can and should do is to lay down the rules under which German democracy can govern itself. The Allied occupation forces should be limited to the number sufficient to see that those rules are obeyed.

. . . .

The United States favors the early establishment of a provisional German government for Germany. Progress has been made in the American zone in developing local and state self-government in Germany, and the American Government believes similar progress is possible in all zones.

It is the view of the American Government that the provisional government should not be hand-picked by other governments. It should be a German national council composed of the democratically responsible minister presidents or other chief officials of the several states or provinces which have been established in each of the four zones.

Subject to the reserved authority of the Allied Control Council, the German National Council should be responsible for the proper functioning of the central administrative agencies. Those agencies should have adequate power to assure the administration of Germany as an economic unit, as was contemplated by the Potsdam Agreement.

The German National Council should also be charged with the preparation of a draft of a federal constitution for Germany which, among other things, should insure the democratic character of the new Germany and the human rights and fundamental freedoms of all its inhabitants.

After approval in principle by the Allied Control Council, the proposed constitution should be submitted to an elected convention for final drafting and then submitted to the German people for ratification.

While we shall insist that Germany observe the principles of peace, good-neighborliness, and humanity, we do not want Germany to become the satellite of any power or powers or to live under a dictatorship, foreign or domestic. The American people hope to see peaceful, democratic Germans become and remain free and independent.

. . . .

The American people want to return the government of Germany to the German people. The American people want to help the German people to win their way back to an honorable place among the free and peace-loving nations of the world.

7. CONSTITUTION OF THE STATE OF HESSE

Text as Passed by the Constitutional Assembly on 29 October 1946, and Ratified by the Voters of Hesse on 1 December 1946

Excerpt

PART ONE: HUMAN RIGHTS

I. Equality and Liberty

ARTICLE 1

All men are equal before the law without distinction of sex, race, birth, and religious or political convictions.

ARTICLE 2

Man is free. He is free to do or to leave undone whatever does not infringe upon the rights of others, or is not to the detriment of the social order as regulated by the Constitution.

No one can be compelled to take, abstain from, or to suffer any action unless a law or a provision based upon a law requires or permits such action, abstention therefrom, or suffrance thereof.

Any person who believes that his rights have been infringed upon by public authority has the right of recourse to legal remedy.

ARTICLE 3

The life, health, honor and dignity of man are inviolable.

ARTICLE 4

Marriage and the family are the basis of community life and as such enjoy the special protection of the law.

ARTICLE 5

Personal freedom is inviolable.

ARTICLE 6

Everyone is free to take up residence and settle wherever he pleases.

ARTICLE 7

No German may be extradited to a foreign power. Foreigners enjoy the protection of the State against extradition and expulsion when they have been persecuted abroad, in violation of the basic rights laid down in the present Constitution, and have fled to Hesse.

ARTICLE 8

The dwelling is inviolable.

ARTICLE 9

There is freedom of creed, conscience and conviction.

ARTICLE 10

No one may be hindered in his scientific or artistic work and in the dissemination of the results thereof.

ARTICLE 11

Every person has the right to express his opinion freely and openly. Such right may not be restricted by employment relationships and no one may suffer disadvantages through the exercise of this right. Only if the work to be contractually performed is designed to serve a specific political, religious or philosophical purpose, and one of the contracting parties deviates from it, may the employment relationship be dissolved.

Press censorship is not permitted.

ARTICLE 12

Secrecy of the mail is inviolable.

ARTICLE 13

Everyone has the right to inform himself freely in every field of knowledge and experience and to secure the opinions of others by the acquisition of printed matter, by listening to broadcasting or in any other manner.

ARTICLE 14

All Germans have the right to meet peacefully and unarmed without previous notification or special permission.

Meetings in the open air may, by law, be made subject to prior notification.

ARTICLE 15

All Germans have the right to form societies or associations.

ARTICLE 16

Everyone has the right to petition or to complain, either alone or in conjunction with others, to the appropriate authority or to the people's representatives.

II. Limitations and Safeguards of Individual Rights

ARTICLE 17

No person who attacks or endangers the constitutional order may invoke the right of free expression of opinion, or the right of holding meetings and forming societies, or the right of disseminating scientific or artistic works.

Whether a threat to the constitutional order exists shall be decided on appeal by the Staatsgerichtshof.

ARTICLE 18

No person who infringes upon laws for the protection of youth may defend himself by appeal to the right of free expression of opinion, of dissemination of scientific or artistic works and of freedom of instruction.

ARTICLE 19

In case there is substantial evidence to the effect that a criminal act has been committed, the judge may order custody, house search or restrictions of the right of postal secrecy. House search may also subsequently be approved when the pursuit of the offender makes it imperative to act immediately.

Every person arrested must be brought before the judge within twenty-four hours and the judge must decide whether such person is to be released or detained, in which latter event the matter must be re-examined afresh each month to determine whether further detention is justified, until a final judicial decision has been issued. The reason for arrest must be communicated at once to the person arrested and at his request to the members of his family within twenty-four hours after the judicial decision.

ARTICLE 20

No one may be prevented from appearing before his lawful judge. Exceptional or special penal courts are unlawful.

Everyone is considered innocent until he has been found guilty by a final decision of a regular court. The right at all times to defense by counsel may not be restricted.

ARTICLE 21

If anyone has been found guilty of a criminal act, his liberty and civic rights may be withdrawn or restricted on the basis of the criminal laws by court sentence. The sentence of death may be passed when the crime is of a particularly serious nature.

Punishment shall be commensurate with the crime.

All prisoners must be treated humanely.

ARTICLE 22

No criminal law has retroactive force unless it is more favorable to the offender than the law in force at the time of the crime.

No one may suffer or be held responsible under criminal law for actions of commission or omission which are not chargeable to him personally.

No one may be punished more than once for the same action.

ARTICLE 23

Should the condition of a person who is sick mentally or physically represent a considerable danger for his fellow men, he may be committed to an institution. He has the right to appeal to a judge against this measure. Details are provided by law.

ARTICLE 24

Other restrictions of personal liberty are admissible only within the scope of existing legislation and only insofar as they are necessary to secure the appearance in court of the person summoned, and to fulfill the duty of testifying, to keep order in the court and to secure the execution of court decisions and the carrying out of administrative orders.

ARTICLE 25

Every person has the duty within the scope of the law of accepting unpaid work and of rendering personal services for State and municipality. The necessary free time must be granted to any such person standing in an employment relationship. Details are provided by law.

ARTICLE 26

These basic rights are unalterable and impose a direct obligation upon legislators, judges and administrators.

III. Social and Economic Rights and Duties

ARTICLE 27

The social and economic order is based on the recognition of the dignity and individual worth of man.

ARTICLE 28

Man's ability to work stands under the special protection of the State.

Every person has a right to work according to his capabilities and has the moral duty to work, without prejudice to his personal liberty.

Every person who is without work through no fault of his own is entitled to claim necessary provision for himself and the members of his family whom he has the duty to maintain. Unemployment insurance is regulated by law.

ARTICLE 29

A uniform labor law shall be enacted for all employees, workers and civil servants.

Collective agreements within the scope of such labor legislation may be concluded only between the labor unions and the employers or their organizations. They create binding law which as a matter of principle can only be altered in favor of the persons employed.

Arbitration procedures are regulated by law.

The right to strike is recognized, if the labor unions declare a strike.

Lockouts are illegal.

ARTICLE 30

Terms of employment must be of such a nature that they insure the health, dignity, family life and cultural claims of the person employed; in particular, they must not endanger the physical, mental and moral development of juveniles.

The law provides facilities for the protection of mothers and children and creates the assurance that women can reconcile their functions as citizens and workers with their duties as wives and mothers.

Child labor is forbidden.

ARTICLE 31

The eight-hour day is the legal rule. Sundays and legal holidays are free from work. Exceptions may be allowed by law or by collective agreement if for the general benefit.

ARTICLE 32

The first day of May is a legal holiday for all engaged in work. It symbolizes allegiance to social justice, progress, peace, liberty and international understanding.

ARTICLE 33

Remuneration for work must be commensurate with performance and must be adequate to cover the living requirements of the worker and those entitled to his support. Women and juveniles have claim to the same wage for the same labor and the same performance. Remuneration for work is paid for holidays falling within the work period.

ARTICLE 34

Every person engaged in employment has claim to a paid vacation of at least twelve working days annually. Details are determined by law.

ARTICLE 35

A system of social insurance must be created which will be binding on the entire population. It must be systematically developed. Those insured are entitled to administer their own system. Their administrative bodies shall be elected by secret, universal, free and equal ballot. Details are determined by law.

Social insurance has the function of improving the health of the people, of applying for the purpose preventive measures; of affording sick persons, pregnant women and women in childbed, every necessary assistance, and of insuring adequate provision for persons of restricted earning capacity, persons unable to earn their living, dependents, and those in old age.

The regulation of the public health system is a concern of the State. Details are determined by law.

ARTICLE 36

The freedom to organize in labor unions or representative bodies of employers in order to shape and improve working and economic conditions is guaranteed for all.

No one may be compelled to become a member of such an association or prevented from becoming a member.

ARTICLE 37

With the cooperation of the labor unions, employees, workers and officials in public and private business have common representative bodies which must be elected by universal, equal, direct and secret ballot of the persons employed.

The duty of the employees representative bodies is to exercise the right of participating on equal terms with the management in the solution of social, personnel and economic problems of the enterprise in collaboration with the labor unions.

Details are regulated by law.

ARTICLE 38

The economy of the State has the function of serving the welfare of the entire population and satisfying their requirements. For this purpose legislation must provide the measures necessary to guide manufacture, production and distribution in an appropriate manner, to insure everyone a just share in the economic results of all labor, and to protect everyone against exploitation.

Economic activity is free within the limits hereby prescribed.

The labor unions and the representatives of the enterprises have equal right of representation in the bodies charged by the State with carrying out its directive measures.

ARTICLE 39

Every misuse of economic liberty, especially for monopolistic concentration and for political power, is prohibited.

Property, the nature of which is conducive to the misuse of economic freedom in this manner, must be transferred to public ownership in accordance with legislative provisions. Should it not be advisable from an economic point of view to transfer such property to public ownership, it must, on the basis of legislative provisions, be placed under the supervision of the State or administered by bodies set up by the State.

The law decides whether the justification for such action actually exists.

Compensation for the property transferred to public ownership is determined by law in accordance with social policy. Compensation must as a rule be refused when it is found that economic power has actually been abused.

ARTICLE 40

Public property is the property of the people. Disposition of such property and its administration shall be made on the basis of detailed legislative provisions to such legal entities as offer a guarantee that the property will serve exclusively the welfare of the people, and that the accumulation of power will be avoided.

ARTICLE 41

As soon as the present Constitution takes legal force and effect:

1. Coal, potash and ore mines, iron and steel plants, power plants and rail and trolley lines are transferred to public ownership.

2. The large banks and insurance undertakings, and those enterprises of the nature specified in the foregoing Paragraph 1, the seat of which is not located in Hesse, are placed under State administration or supervision.

Details are regulated by law.

Owners of a business enterprise transferred to public ownership in accordance with the foregoing Paragraph 1, or any person entrusted with its management, must continue to manage it as State trustee until laws for carrying out these provisions have been enacted.

ARTICLE 42

Large landed estates which history has shown to contain the risk of political misuses, or favoring militaristic tendencies, must be included within the system of land reform in accordance with the provisions of special laws.

It is above all the purpose of land reform to maintain and enlarge agricultural and forest land, to increase its yield, to provide homesteads for farmers, and to create healthy housing accommodations and small garden tracts and buildings connected therewith.

Scattered landed property shall be made more productive by consolidation of tracts.

Landed property which is withdrawn by the owner from proper management and cultivation may be confiscated in accordance with detailed provisions of law.

Paragraph four of Article 39 applies correspondingly for the granting of compensation to the previous owner.

ARTICLE 43

Independent small and medium agricultural, trade, handicrafts and industrial business enterprises must be furthered and promoted by legislation and administration and protected, in particular, from being overburdened and absorbed.

For that purpose cooperative self-help must be expanded and developed.

ARTICLE 44

Cooperatives shall be promoted and furthered.

ARTICLE 45

Private property is guaranteed. The content and limitations thereof are determined by law. Every person is entitled to acquire property on the basis of the law and to dispose thereof.

Private property carries an obligation to the public and it may not be used contrary to the interests of the general welfare. It may be restricted or confiscated only in the public interest, only by law, only according to the procedure provided therefor, and only in return for reasonable compensation.

The regular courts have jurisdiction in disputes relating to the manner and extent of compensation, provided that the law contains nothing to the contrary.

The right of inheritance is guaranteed according to the provisions of civil law. The share of the State in the property inherited is determined by law.

ARTICLE 46

The rights of authors, inventors and artists enjoy the protection of the State.

ARTICLE 47

Property and income are taxed progressively in accordance with social points of view, taking into consideration family obligations.

In taxation, special consideration must be given to property and income acquired by labor.

IV. State, Churches, Religious and Philosophical-ethical Associations

ARTICLE 48

The unhindered, public exercise of religion and the freedom of association for the formation of religious and philosophical-ethical associations is guaranteed.

No one may be compelled to take part in a religious exercise or an ecclesiastical act or celebration, or prevented from taking part therein or compelled to use a religious form of oath.

There is no State church.

ARTICLE 49

Every church and every religious and philosophical-ethical association orders and administers its affairs independently within the limits of laws equally valid for all. It makes appointments to its offices without the participation of the State or of the civil municipality.

ARTICLE 50

It is the function of law or agreement to delineate the spheres of State and church clearly as against one another.

Churches, religious and philosophical-ethical associations must refrain, like the State, from any intervention in each other's affairs.

ARTICLE 51

Churches, religious and philosophical-ethical associations shall remain corporations under public law, insofar as they have hitherto been such. The same legal status may be accorded to other religious and philosophical-ethical associations when their Constitutions and the number of their members present a sufficient guarantee of permanence.

No restrictions shall be placed on the union of churches, religious and philosophical-ethical associations. A union formed of a number of organizations having public law status shall also be a corporation having public law status.

Churches, religious and philosophical-ethical associations which are corporations of the public law may levy taxes on the basis of the civil tax lists according to details laid down by law.

ARTICLE 52

Payments based on law, agreement or special legal rights which are made by the State to the churches and philosophical-ethical associations shall be redeemed on the basis of legislation.

ARTICLE 53

Sundays and holidays recognized by the State shall be protected by law as days of rest from labor and for spiritual development.

ARTICLE 54

So far as there is need for church services and spiritual aid in hospitals, prisons and other public institutions, churches and religious and philosophical-ethical associations may be permitted to carry out religious offices. In such functions, any compulsion is forbidden.

V. Education and Schools

ARTICLE 55

It is the right and duty of parents to instil in young people a social consciousness and to develop their highest physical, mental and moral capacities. Such right can be withdrawn only by court judgment in accordance with the laws.

ARTICLE 56

There is general compulsory education. The educational system is the concern of the State. School supervision is exercised by full-time professionally trained personnel.

As a rule, children of every religious confession and philosophical-ethical ideology are educated together in all schools in Hesse (non-denominational, public school).

Tolerance must be the basic principle of all instruction. In every branch of instruction the teacher must pay due regard to religious and philosophical-ethical beliefs and expound objectively all religious and philosophical-ethical ideologies.

The object of education is to mold young people into moral persons and to develop their vocational effectiveness and political responsibility for independent and responsible service to the people and humanity in respect and neighborly love, esteem and tolerance, uprightness and truth.

Historical instruction must be directed to faithful, undistorted representation of the past, whereby the great benefactors of mankind, the development of the State, economics, civilization and culture must occupy the foreground of interest and not generals, wars and battles. Conceptions which endanger the foundations of the democratic state must not be tolerated.

Persons responsible for the education of children have the right to participate in determining the structure of the educational system, provided that the principles of paragraphs two to five inclusive of this Article are not violated.

Details are regulated by law. Precaution must be taken to prevent violation in the schools of religious and philosophical-ethical principles in accordance with which persons responsible for education desire to have their children educated.

ARTICLE 57

Religious instruction shall be a regular subject of teaching in the school. In giving religious instruction, the teacher is bound by the tenets and instructions of his church or the recognized religious group without prejudicing the right of the State to supervise.

These provisions shall apply similarly to philosophical-ethical groups.

ARTICLE 58

Persons responsible for education of children determine their participation in religious instruction. No teacher can be required to give religious instruction or prevented from doing so.

ARTICLE 59

Education is free of charge in all public elementary, intermediate and higher schools and colleges. School supplies are also free of charge with the exception of those used in the colleges. The law must make provision for grants in aid of education for talented children of less well-off persons. Legislation may provide that a reasonable school fee will be paid when the financial condition of the pupil, his parents or other person responsible for his maintenance, so permits.

Admission to intermediate and higher schools and colleges shall be made contingent only on the ability of the pupil.

ARTICLE 60

Universities and State colleges enjoy the protection of the State and are subject to State supervision. They have the right of self-administration in which the students must be allowed to take part.

Faculties of theology at universities are preserved. Churches must be consulted before the appointment of lecturers.

The theological training schools of the churches are recognized.

ARTICLE 61

Private intermediate and secondary schools and colleges, as well as special types of schools require approval of the State. Approval must be refused if the private schools, in their teaching objectives and facilities as well as in the scientific training of their teachers, are inferior to the public schools; if they promote discrimination according to the property status of the parents; or if the economic and legal position of the teachers is not sufficiently secure. Details are determined by law.

ARTICLE 62

Monuments of art, history and culture and the landscape enjoy the protection and care of the State and of the municipalities. These shall have the duty, within the limits of special laws, of supervising the replanning and reconstruction along artistic lines of German cities, villages and settlements.

VI. Provisions Common to all Basic Rights

ARTICLE 63

Insofar as the present Constitution admits of the restriction by law of one of the foregoing basic rights or reserves further details to a law, the basic rights as such must not be infringed upon.

Law, within the meaning of such provision affecting basic rights, is a general rule enacted only by the people or by their representatives which expressly contains provisions relating to the limitation or to the definition of a basic right. Decrees, references in the text of the law to former regulations as well as provisions evolved by interpretation of authorizations of a general legislative nature, do not satisfy such requirements.

. . . .

Appendix I

LABOR

Appendix I

LABOR

1. JCS 1067

Directive to Commander in Chief of United States Forces of Occupation Regarding the Military Government of Germany

Press Release 769
JCS 1067 (April 1945) revised
Excerpt

[October 17, 1945]

. . . .

23. You will permit the self-organization of employees along democratic lines, subject to such safeguards as may be necessary to prevent the perpetuation of Nazi or militarist influence under any guise or the continuation of any group hostile to the objectives and operations of the occupying forces.

24. You will permit free collective bargaining between employees and employers regarding wage, hour and working conditions and the establishment of machinery for the settlement of industrial disputes. Collective bargaining shall be subject to such wage, hour and other controls, if any, as may be instituted or revived by your direction.

2. CONTROL COUNCIL LAW NO. 21

Law Concerning German Labour Courts

[March 30, 1946]

The Control Council enacts as follows:

ARTICLE I

For the settlement of labour disputes local and appellate labour Courts shall be established throughout the whole of Germany.

ARTICLE II

The Labour Courts shall have jurisdiction in civil actions of the following categories, to the exclusion of the ordinary courts and irrespective of the value of the matter in dispute (*Wert des Streitgegenstandes*).

1. Disputes between parties to a collective agreement, or between such parties and third parties, where the disputes arise out of collective agreement or relate to the existence or non-existence of collective agreements; and disputes between parties competent to conclude collective agreements, or between such parties and third parties, where the disputes arise out of wrongful acts provided measures taken for the purposes of industrial strife (*Arbeitskampf*) or questions of freedom of association are in issue;

2. Disputes between employers (*Arbeitgeber*) and employees (*Arbeitnehmer*) where the disputes arise out of the employment relationship or apprenticeship, or relate to the existence or non-existence of a contract of employment or articles of apprenticeship, or arise out of negotiations for the conclusion of a contract of employment or articles of apprenticeship and out of the effects thereof; and disputes arising out of wrongful acts provided these are connected with the employment relationship or apprenticeship. Exceptions shall be—

(a) disputes relating to an employee's invention, where the subject matter of the dispute is not merely a claim for remuneration or compensation for the invention;

(b) disputes involving persons belonging under section 481 of the Commercial Code to a ship's crew.

3. Disputes between employees arising out of their common employment and out of unlawful acts provided these are connected with the employment relationship or apprenticeship.

4. Disputes arising out of agreements between employers and employees about conditions of work, health and protection against accidents.

5. Disputes relating to the interpretation of agreements concluded between works Councils and employers.

ARTICLE III

The Labour Courts shall be under the German Labour Administration of the Province or Land only for administrative purposes. Their decisions shall not in any way be influenced, set aside or modified by such authorities.

ARTICLE IV

1. The Local Labour Courts shall be courts of first instance irrespective of the value of the matter in dispute.

2. The Appellate Labour Courts, as courts of second instance, shall decide appeals from decisions of the Local Labour Courts. Such decisions shall be subject to appeal when the value of the matter in dispute is equal to or exceeds the amount fixed by the Labour Administration of the Province or Land, or when the Local Labour Courts,

although the value involved is lower than the amount which has been thus fixed, have decided to adjudicate subject to appeal because of the fundamental importance of the principle involved. Reasons shall be given in such cases for the decision to adjudicate subject to appeal.

3. In the absence of a German Supreme Labour Court of Appeal the Zone Commanders may establish one or more higher courts as courts of final instance in Labour disputes.

ARTICLE V

Each Labour Court shall consist of a Chairman or Deputy Chairman and of assessors. The assessors shall be selected in equal number from among employers and employees. Each member shall be of recognized democratic views.

ARTICLE VI

1. Chairmen and Deputy Chairmen of Labour Courts shall be selected and appointed in accordance with the following procedures:

a. The Chairman and Deputy Chairman shall be persons particularly competent on labour matters and capable of assuming the functions of judges by reason of their former activities, their studies or the functions they have exercised in employees' or employers' organisations. They need not be professional judges; but the Chairmen and Deputy Chairmen of appellate courts shall have appropriate legal qualifications.

b. Representatives of employees and employers shall propose to the Provincial or Land Labour Administration names of candidates for the posts of Chairmen and Deputy Chairmen. The aforesaid representatives shall respectively submit a number of candidates corresponding to the number of seats to be filled.

c. The Provincial or Land Labour Administration shall draw up a list of candidates for the posts of Chairmen and Deputy Chairmen from the names submitted by the representatives of employees and employers. It may propose as candidates other persons than those recommended by the representatives. After consulting such representatives the Labour Administration of the Province or Land shall submit a list of candidates together with the original recommendations of the representatives to the highest authorities in the Province or Land which shall make the appointments.

2. The German Labour Administration of the Province or Land shall establish two panels of assessors:

a. The employees' panel shall be selected on the basis of the proposals of the Trade Unions or their Federations within the territorial jurisdiction of the Court.

b. The employers' panel shall be selected on the basis of the proposals of the employers or of recognized employers' associations within the territorial jurisdiction of the court.

ARTICLE VII

1. The terms of office of the Chairman or the Deputy Chairman of a Labour Court shall be three years. He shall be eligible for reappointment.
2. The Chairmen and Deputy Chairmen may be removed by the appointing authority on the recommendation of a Disciplinary Chamber. The Disciplinary Chamber shall consist of a Chairman who shall be a representative of the appointing authority and six members who shall be Chairmen of Labour Courts of the same or neighbouring Provinces or Lands.
3. The right of the Zone Commanders to remove or to approve removal of personnel of Labour Courts is not affected by this Law.

ARTICLE VIII

1. The expenses for the organization and functioning of the Labour Courts shall be borne by the Provinces or Lands and shall be included in their budget.
2. The costs of each case shall be borne by the parties designated by the Labour Court.

ARTICLE IX

The territorial jurisdiction of Labour Courts shall be determined by the respective Zone Commanders.

ARTICLE X

As an interim measure, the provisions of the German Labour Courts Act (*Arbeitsgerichtgesetz*) of 23 December 1926 in its original version shall continue to apply insofar as they are not in conflict with those of the present law.

ARTICLE XI

The Allied Kommandatura is charged with the duty of taking appropriate measures for the establishment of Labour Courts in Berlin in accordance with the principles of this law.

ARTICLE XII

This law concerns Labour Courts of the first and second instance, unless otherwise specified.

ARTICLE XIII

The present law shall come into force on the day of its publication.

Done at Berlin the 30th. day of March 1946.

V. SOKOLOVSKY
Army General
for G. ZHUKOV
Marshal of the Soviet Union
LUCIUS D. CLAY
Lieutenant General
for JOSEPH T. MCNARNEY
General
MONTGOMERY OF ALAMEIN
Field Marshal
L. KOELTZ
Général de Corps d'Armée
for P. KOENIG
Général de Corps d'Armée

3. CONTROL COUNCIL LAW NO. 22

Works Councils

[April 10, 1946]

The Control Council enacts as follows:

ARTICLE 1

The organization and activities of Works Councils (*Betriebsraete*) to represent the professional, economic and social interests of the workers and employees in each individual enterprise are hereby permitted throughout Germany.

ARTICLE 2

1. A Works Council for an enterprise shall consist only of persons actually working in that enterprise.

2. No official of the former German Labor Front (*Deutsches Arbeitsfront*) or former member of the Nazi Party shall be a member of a Works Council.

ARTICLE 3

1. Members of Works Councils shall be elected by democratic methods. Voting shall be by secret ballot.

2. No person may hold office as a member of a Works Council for more than one year without re-election.

ARTICLE 4

1. Workers and employees of an enterprise may in general meeting form a Preparatory Committee for the purpose of making recommendations with regard to the composition of the Works Council and the conduct of the election of members thereof. These recommendations shall be subject to the approval by the majority of the workers and the employees of the enterprise in general meeting.

2. Recognized Trade Unions may participate in the formation of Preparatory Committees and in the organization of elections to Works Councils, and may propose candidates for Works Councils from among workers and employees of the enterprise concerned.

ARTICLE 5

1. Works Councils may have as their basic functions any of the following matters relating to the protection of the interests of the workers and employees of an enterprise except insofar as these matters are governed by or are subject to any restriction by regulations having the force of law:

(a) Negotiations with employers on the application of collective agreements and of internal regulations to individual enterprises.

(b) Negotiations of agreements with the employers regarding factory regulations for the protection of labor, including such matters as safety precautions, medical facilities, factory hygiene, working conditions, rules for engagements, dismissals, and settlement of grievances.

(c) Submission of proposals to the employer for the improvement of methods of work and organization of production for the purpose of avoiding unemployment.

(d) Investigation of grievances and discussion thereof with the employer; assistance to the workers, employees and Trade Unions in the preparation of cases for submission to factory inspectors, social insurance and labor protection authorities, labor courts and other agencies for settling labor disputes.

(e) Co-operation with the authorities in the prevention of all war production and in the de-nazification of public and private enterprises.

(f) Participation in the creation and management of social works designed for the welfare of the workers of an enterprise, including nurseries, medical assistance, sports, etc.

2. Each Works Council shall determine its specific functions and procedure within the limits set forth in this law.

ARTICLE 6

1. A Works Council or its representatives shall be entitled to meet within the enterprise, and to have access to the employer or his nominated representative for the purpose of discussing matters falling within the competence of the Works Council.

2. The employer shall submit periodically to the Works Council all information necessary to enable the latter to carry out its basic functions.

3. The matters on which the employer shall submit reports to the Works Council and the hours and dates of meetings shall be the subject of an agreement between the Works Council and the employer. This agreement may provide, as a method of information, for the attendance of representatives of the Works Council at meetings of the supervisory body of the enterprise.

ARTICLE 7

Works Councils shall carry out their functions in cooperation with the recognized Trade Unions.

ARTICLE 8

In addition to their regular meetings, Works Councils shall give a full report of their activities at least once every quarter to a general meeting of the workers and employees concerned.

ARTICLE 9

No employer shall hinder the establishment of a Works Council in his enterprise, or interfere with its activities, or discriminate against the members of the Works Council.

ARTICLE 10

Military Government authorities may dissolve any Works Council if its activities are directed against the aims of the occupation or are in conflict with the provisions of this law.

ARTICLE 11

The provisions of this law shall also apply to Works Councils which were in existence prior to the date of its coming into force.

ARTICLE 12

All German laws conflicting with this law are repealed or amended in conformity with the provisions of this law.

ARTICLE 13

This law shall come into force on the date of its publication.

Done at Berlin April 10, 1946.

Joseph T. McNarney
Montgomery
P. Koenig
V. Sokolovsky

Appendix J

EDUCATION

Appendix J

EDUCATION

1. POLICY STATEMENT

Long-Range Policy Statement for German Reeducation, Prepared for the Department of State by a Committee of American Educators

Press Release [*August 21, 1946*]

1. The reeducation of the German people can be effective only as it is an integral part of a comprehensive program for their rehabilitation. The cultural and moral reeducation of the nation must, therefore, be related to policies calculated to restore the stability of a peaceful German economy and to hold out hope for the ultimate recovery of national unity and self-respect.

2. In the initial phases of control, Military Government has been concerned with the elimination of Nazi and militaristic doctrines and practices and the permanent exclusion of objectionable persons from posts of influence. These objectives will continue to be its concern. At the same time, a program for the reconstitution of German cultural life has been initiated.

3. The political and moral reeducation of the German people will foster the reestablishment of universally valid principles of justice.

4. The German people must come to understand that the Nazi repudiation of these principles destroyed all individual rights in the Nazi state, made the effort at world tyranny inevitable and brought Germany to its present disaster. They must come to understand that the present control measures over Germany are not prompted solely by the German violation of the rights of other peoples. They were also made necessary by the political chaos in Germany, which was the direct consequence of the Nazi denial of all political rights and destruction of all alternative organized forces within the nation.

5. The primary principles of justice, basic to the program of reeducation are:

(*a*) That men and nations owe obligations to each other; and that these responsibilities are not, as Nazism maintained, limited to a single race, nation or group.

(*b*) That the dignity and integrity of the individual must be respected by society and other individuals; and that the individual is not, as Nazism maintained, merely a tool of the state.

(*c*) That citizens bear their share of responsibility for public policy and that they have the right and duty to participate in government resting on the consent of the governed.

(*d*) That the untrammeled pursuit of truth is a prerequisite for the maintenance of justice; and that free communication between individuals, groups and nations is a necessary condition for national and international understanding. Experience with Nazism proves what evil consequences flow from the suppression and corruption of the truth.

(*e*) That toleration between diverse cultural and racial groups is the basis of national and international tranquillity; and that coerced unity of culture, after the manner of Nazism, is the source of tyranny and anarchy.

6. The program of German reeducation will make maximum use of those German resources which offer promise of developing ideals and institutions in harmony with the above stated universally valid principles of justice. The reconstruction of the cultural life of Germany must be in large measure the work of the Germans themselves and must be fostered not only on a regional but also on a national scale.

7. The Nazi heritage of Germany's spiritual isolation must be overcome by restoring as rapidly as possible those cultural contacts which will foster the assimilation of the German people into the society of peaceful nations.

2. EDUCATION MISSION

Summary of Recommendations of the Education Mission to Germany

Press Release 723 [*October 12, 1946*]

1. Importance of Educational Program

The United States should continue to encourage and use education in the widest sense to attain its major purpose in Germany, namely the development of a democratic and peaceful way of life. The reeducation of the German people is an undertaking of the greatest magnitude. It can be successful only if the Germans draw upon their own resources and themselves exercise initiative. The occupying powers should continue to give them guidance, encouragement and material aid in this undertaking. The Mission believes that the United States must regard this responsibility as a long-term task in view of the conditions prevailing in Germany.

The Mission recognizes that reeducation can be effective only in an economy which offers hope to the Germans that the present obstacles to material security will be overcome. It recognizes also that formal education is only one aspect of the total educational problem. In addition to the school, the home, the churches, youth organizations, and other institutions play an important part in forming attitudes and promoting ideals.

The program of reeducation is faced with the consequences of twelve years of Nazi rule and of total defeat. The vagaries of war's destruction are especially apparent in the physical condition of the various educational institutions of the United States Zone. Even where school buildings have escaped fire and bomb, all too often they are still unavailable for educational purposes because of requisitioning. The shortage of coal threatens the very possibility of keeping educational institutions open in really cold weather. The loss of books is incalculable. Lack of paper, though perhaps the most crucial, is but one example of an almost complete dearth of every possible teaching aid at every level. Moreover, the schools must educate their students, augmented by displaced persons, expellees and a backlog of war veterans, with a professional personnel inadequate in both quality and quantity.

2. *Elementary and Secondary Schools*

In view of the fact that class distinctions are still emphasized in the very organization of the school, elementary, secondary and vocational schools should be united to form a comprehensive school system for all children and youth below the university level. All secondary schools should be tuition-free so that attendance will no longer be limited to the privileged. In both the elementary and secondary schools there should be a common curriculum, with opportunities for increasing specialization in the upper grades. The most important change needed in all German schools is a change in the whole concept of the social sciences, which should contribute perhaps the major share to the development of democratic citizenship. School life in all its phases must be so organized as to provide experience in democratic living. The sharp shift in job opportunities has intensified a need for vocational guidance as a regular service of the educational system. The usual school program should also be extended to make provision for the needs of children under six, and of older children during out-of-school hours. School feeding and rest programs should also be included as needed.

3. *Teacher Training*

Since denazification in our zone was carried out with such initial severity that more than half of all teachers were removed, former teachers who are almost certain to be exonerated by the denazification tribunals should be reemployed on probationary status. The interest of women in teaching should be encouraged. The vital place of elementary teachers in the educational system of Germany must be recognized by higher salaries and by the requirement of a higher general standard of education. German universities should accept the responsibility for developing better methods and practices in both the elementary and secondary schools and for the professional training of secondary school teachers, research workers and administrative officers. Special lecturers and consultants from the United States and other democratic countries could help to broaden the outlook of prospective teachers. Candidates for teaching should also learn at first hand the spirit and attitude of democracy by observation of the schools established for the children of United States personnel in Germany, and whenever possible, through study in democratic countries. A comprehensive national organization open to teachers of all levels and fields should be created and eventually establish international affiliations.

4. Universities and Higher Education

Young men and women having the initiative and energy to rebuild the universities and adapt them more closely to the needs of present-day life in Germany should be given positions of responsibility. Students should be drawn from all levels of society; financial assistance should be provided for those who have the ability but lack the means to study at a higher institution. Broadly representative advisory bodies should be appointed to advise concerning ways in which the curriculum should be modified to adapt it more closely to changing social conditions. All universities and higher schools should include within each curriculum the essential elements of general education for responsible citizenship and for an understanding of the contemporary world. German universities and higher schools should also provide for new types of advanced instruction required by emerging vocational and professional groups. Extra-curricular activities such as informal discussion groups and student government should be inaugurated to provide practical experience with the processes of democracy.

5. Youth Activities

The youth activities program which aims to provide for a constructive use of leisure time and training in democratic ways should be expanded. Voluntary associations of young people should assume a larger degree of self-direction and enrich their programs, which should include political education of a nonpartisan and realistic character. There should be provision for cooperation among the various groups through cultural and recreational programs and in community-wide committees. Youth committees should stimulate the formation of new groups, secure all available resources, and develop vigorous programs of leadership training.

6. Adult Education

Adult education programs should place greater emphasis upon current economic and social problems in national and international affairs, and the discussion method should be given a much more important role. Administrators should not confine their work to the people's colleges, but should assist in developing the educational programs of trade unions, youth groups, churches and other organizations. University extension programs should also be encouraged. Adult education should reach out into the village and rural areas. Extensive use should be made of documentary films, especially those which demonstrate the functioning of democratic institutions, and of radio programs such as round-table discussions and forums.

7. *Administrative Controls*

It is hoped that the whole program for education will become subject more and more to interzonal review and consultation. The Mission recommends the policy of patience and firmness which United States authorities maintain on educational and other cultural issues. We should continue to admit no compromise in setting as objectives for the German people the ideals of freedom of teaching, freedom of private and public expression, and freedom of publication. The Germans have been promised the ultimate unity of their nation, and that includes the unity of their cultural life. There is no desire to restore centralized control of education, but it may eventually be desirable to establish a German central office of education, not for control but for ready dissemination of information and for the management of exchange of foreign students and other service enterprises. The administration of education in the United States Zone is now and should remain a function of the three *Länder.* There should, however, be extended cooperation among the *Land* educational officials, perhaps including the establishment, with United States assistance, of a joint institution for educational research and service.

The Education and Religious Affairs Branch of Military Government, in addition to its advisory function, must necessarily have the right of veto over undemocratic proposals of the *Land* education ministries. The limited staff in all phases of the informational and educational program have done a remarkable job under the most difficult circumstances. But if the educational task is at once the hardest and most important task facing Military Government in Germany today, as has been said repeatedly by the most responsible officials, there should be available not only a more adequate staff but educational counsel and advice of the highest character. The Educational and Religious Affairs Branch should be doubled in size and civilianized as far as possible. It should have the status of a division in the Office of Military Government, its head reporting directly to the Deputy Military Governor. It is also recommended that the Department of State and the War Department appoint a continuing advisory committee of interested and competent persons with which the two departments may consult on matters of major educational policy and operations.

8. *American Aid to Germany*

a. Allocation of facilities and equipment. It is recommended that every effort be made by the United States Army and any other agencies involved to make adequate space available for teaching, and for living accommodations in university communities. Policies with regard to paper rationing should be reexamined with the purpose of allocating a larger proportion to books and scholarly journals; and restrictions on the importation of books, paper, journals and other instruments of culture should be modified. Materials and equipment for the production and distribution of educational films should be released. The program of Army Assistance to German Youth, whereby resources are made available for informal sports and cultural activities, should be continued.

b. Revival of cultural contacts. The United States has a unique opportunity to influence the fundamental reorientation of the German educational program in the direction of democratic goals and procedures. The Government of the United States should continue its present program of educational aid to Germany in the form of American publications and documentary films, the dispatch of educational experts to Germany and the maintenance of information centers. The budget for this program, which is making an impact upon the cultural life of Germany in ways that will strengthen the latent forces of democracy, should remain at least at its present size. It is recommended that this program be supplemented by the provision of funds for bringing carefully selected German students, teachers and other cultural leaders to the United States for a period of training. The provisions of the Fulbright Law relating to student and teacher exchanges should be extended to Germany as soon as possible.

A voluntary body should be set up in Washington to coordinate the work of individuals and private organizations in educational aid to Germany and to serve as a liaison with the governmental agencies concerned. This coordinating body should serve as a clearing-house for information and should secure the assistance of private organizations in recruiting personnel for teaching and other cultural work in Germany, in making it possible for Germans to study in the United States, and in providing quantities of books and other materials of educational value. The private exchange of publications and other materials should also be coordinated through a central agency. This agency should have authority to accept contributions to a fund which would enable Germans to purchase cultural materials in the United States.

Appendix K

BRITISH, FRENCH, AND SOVIET POLICIES TOWARD GERMANY

Appendix K

BRITISH, FRENCH, AND SOVIET POLICIES TOWARD GERMANY

1. BRITISH POLICY

Statement by British Foreign Secretary Bevin in House of Commons, October 23, 1946

Excerpt

. . . .

Germany: The Most Difficult and Testing Problem

I want to bring the House now to one of the most difficult subjects associated with peace, and particularly with the problem to which one has to find a solution, namely, Germany. I turn to Germany where we and our Allies are confronted with a most difficult and testing problem. Agreement on Germany is at once the touchstone of the relations between the Four Powers and our opportunity to build a system of lasting peace and security for the world.

Whatever difference of opinion there might be as to the final settlement in Germany, the Four Powers in occupation of Germany are joined by their determination to prevent any future German aggression or the creation of any state of affairs in Germany in which such aggression might be prepared. The issues in Germany will have to be faced at a special meeting of the Council of Foreign Ministers in November in New York. I must not mislead the House into assuming that the German question can be finally settled at this meeting. One hopes that it will be possible to agree on general principles to be worked out at later meetings until we arrive at a final solution. Our ultimate goal is the preparation of a peace treaty but there is a large amount of preliminary work to be done before it can be accomplished. It is obvious that the views of the countries which waged war against Germany must be heard. The exact procedure to enable their views to be heard must first be worked out at the Council of Foreign Ministers but it is clear that no final decisions can be taken until all the powers who actively took part in the war against Germany have had a chance to express their views.

Three-Point Program

I should like now to state some of the general principles which His Majesty's Government hope to see adopted with regard to the treatment of Germany. I hope they may commend themselves to the House and that we may go into the Conference in New York fortified with the knowledge that our ideas have the support of public opinion, of the House, and of the country. We wish to see established, first, political conditions which will secure the world against any German reversion to the dictatorship or any revival of German aggressive policy. Second, economic conditions which will enable Germany and the world outside Germany to benefit in conditions of peace from German industry and resources. Third, constitutional machinery in Germany for these ends which is acceptable to the German people and is thus likely to be more permanent. As regards the first point, we are striving to stimulate habits of orderly self-government amongst the Germans. There have recently been elections in the British zone for local councils. There have also been elections in Berlin, the results of which the House is already aware. Next spring there will be elections for the Provincial Councils. The lesson that the exercise of political power and responsibility is dependent on the approval of the electors expressed through the ballot box is one of the most valuable we can teach the Germans.

As regards the third point, the constitution of Germany, we are decentralising German administration as far as possible. We have set up a new province of North Rhineland Westphalia and we intend reorganising the remainder of our zone into two other provinces, Schleswig-Holstein and Lower Saxony. The Hanseatic towns of Hamburg and Bremen will, for the time being, remain separate from the arrangement.

Looking further ahead, we contemplate a German constitution which would avoid the two extremes of a loose confederation of autonomous states and a unitary centralised state. Certain questions would be exclusively reserved to the centre and the regional units would be exclusively competent in all the remaining powers. Allowance would thus be made for local differences in tradition, religion, and economic circumstances. The central government might consist of two chambers, one of which would be popularly elected and the other consisting of representatives of the regional units. There might be a supreme court like the United States Supreme Court, with jurisdiction to give rulings on the powers of all central and provincial legislatures. A central German government can in due course be established on condition that it can be freely elected from Germany as a whole and that its authority runs throughout Gemany.

Potsdam Agreement: Must Be Carried Out in Full or There Must Be a New One

I now come to the second point, economic conditions. In the short term our guide should be the Potsdam agreement, which lays down the economic principles to be followed for the initial control period.

There are many imperfections in this agreement, but we have said many times that we are ready to carry it out in its entirety. What we are not prepared to do is to carry out parts of it which are unfavourable to us while other parts are not fulfilled. Neither are we prepared to operate the Potsdam agreement unless it applies to all the zones on equal terms and covers economics, finance, and reparations. The basic provision of the agreement is that Germany shall be treated as an economic unit. It follows that there must not be reparations deliveries from current production so long as there is a deficit in the balance-of-payment account in any one zone. As a result, eastern Germany and western Germany are treated as two separate economic units. We and the Americans have had to buy food and other goods to send into western Germany, while the Russians are taking similar goods from eastern Germany into Russia. This is a situation which cannot go on. We must either have Potsdam observed as a whole and in the order of its decision, or we must have a new agreement.

This situation was so serious that I had to declare at the Council of Foreign Ministers in July that Great Britain would not tolerate paying large sums to keep German economic life going, and that we must take steps to put our zone on a sound economic basis which would prevent any cost falling on the British taxpayers. This would have involved the coal to other zones and to other countries being paid for on a dollar basis. To meet the situation the United States offered to merge their zone with any other zone, and to form one economic unit. His Majesty's Government accepted that. This will not, of course, cure the present deficit of two zones or take the place of the treatment of the whole of Germany as a single economic unit. However, we are satisfied that this merger has been a most useful step in the right direction and that its actual results, providing the financial situation can be straightened out, can be made satisfactory.

Germany Has not Been Treated as Economic Unit

As regards German industry, the British estimate, taking steel as the yardstick—and this was worked out on what was called the Armistice and Post-War Committee of Coalition Government, after the most careful examination of all the facts—was that Germany should be allowed to produce 11,000,000 tons. That 11,000,000 tons would not have created any possibility of aggression, but it was just enough to rehabilitate German life. We met with strenuous opposition and in the interim arrangement which we reached the figure was left at 7,500,000 tons. However, the facts have proved that our estimate was right if the devastation of Germany is to be dealt with. We agreed to this plan on the clear understanding that Germany would be treated as an economic unit. As this has not been done we have a right to revise the plan. Meanwhile, we and the American Government are having to provide large sums of money in order to keep our zones of Germany at the minimum subsistence level. This is most unpalatable and we are doing our utmost to reduce this burden. The greatest single improvement would be to increase the coal output of the Ruhr. In spite of all efforts, we can do this only by retaining in Germany temporarily more of the coal which is at present exported, and so rehabilitate the German coal industry so as to be in a position at an early date to step up exports all round.

Of course, every importing country is greatly concerned. But the fact is the industry there is run down and destroyed and stocks are almost exhausted. The workers are becoming worn out on their poor diet, and are disturbed by lack of certainty about the future of German industry. We had to meet two points of view. We had what was called the Morgenthau Plan to ruralise Germany and that influenced the United States outlook considerably. We had the Russian mind, which, looking for security, thought it ought to be completely destroyed. But the British calculation, taking steel as a yardstick at 11 million tons, and basing the rest of industry on this footing, has turned out a perfectly right calculation, upon which we must work. All these difficulties are intensified by the presence in Germany of a very large number of displaced persons for whom at present no home can be found and by the transferring to Germany of millions of Germans from Poland and Czechoslovakia. We are not trying to evade our responsibility to receive a proportion of these now homeless Germans into our zone, but their arrival obviously increases the difficulties and hardships of the already overcrowded population. Housing space per inhabitant in the British zone, owing to the air war, is already less than it is in any of the other zones.

I was glad to see from Mr. Byrnes' speech at Stuttgart that it is not a part of the American policy to deny to the Germans the possibility of improving their lot by hard work. Mr. Molotov also said in one of his statements in Paris in July that, subject to the necessary controls, the German output of steel, coal, and manufactured products might be increased within certain limits. It is our considered view that German industry has a most important part to play in the whole of European economy, and it is not our intention that it should be permanently crippled, except in so far as it might endanger security. The plan for the Ruhr must be worked into the plan for the disarmament control of Germany as a whole, which is set out in the draft treaty proposed by Mr. Byrnes, which I referred to earlier. Apart from this, we have also to consider the ownership of the basic German industries. These industries were previously in the hands of magnates who were closely allied to the German military machine, who financed Hitler, and who in two wars were part and parcel of Germany's aggressive policy. We have no desire to see those gentlemen or their like return to a position which they have abused with such tragic results.

Industries To Be Publicly Owned: Form Being Worked Out

As an interim measure we have taken over the possession and the control of the coal and steel industries and vested them in the Commander-in-Chief. We shall shortly take similar action in the case of the heavy chemical industry and mechanical engineering industry. Our intention is that those industries should be owned and controlled in future by the public. The exact form of this public ownership and control is now being worked out. They should be owned and worked by the German people but subject to such international control that they cannot again be a threat to their neighbours. The industries are in great disorder. Many of them have been heavily damaged and most of them are operating at a considerable loss. The case for the public ownership of those heavy industries was never stronger than it is in Germany today. The Germans know this themselves. I am satisfied that this statement by me in the House today will give hope to those Germans who never again want to see themselves the victims of these cartels and trusts which led them to disaster, of those magnates who used the labour and skill of the German workmen with such ingenuity and with such disastrous results to them and to the whole world.

Let me sum up our economic aims with regard to the German industry. The production of war material in the broadest sense must be absolutely and permanently prohibited. Germany must become self-supporting as quickly as possible. To achieve this more coal must be produced and retained in Germany. Thereafter, German industry should be free to expand, subject to a measure of international control whose form is to be determined. We should give active support to the German plan for the socialisation of their basic industries. Another most important matter to be discussed at our forthcoming conference is that of Germany's frontiers.

Problem of the Frontiers: East and West

At Potsdam we agreed that a large part of eastern Germany should be provisionally put under Polish administration pending final settlement of the Polish-German frontier. We did not at that conference deal with Germany's western frontiers. There are many pressing and important questions on that side as well. The French wish to incorporate the Saar in their economic and administrative system but without formally annexing it. They also propose that the Rhineland should be detached from Germany and formed into a separate state. They also wish that the Ruhr should be formed into a separate state. In addition to these major problems it is possible that the Netherlands, the Belgian, Danish, and Luxembourg Governments may put forward claims for territorial adjustments with Germany. Our own view on some of these claims has already been expressed and told to the House.

His Majesty's Government are prepared to accept the French proposals about the Saar subject to the necessary adjustments of the French reparations balance and the delimitation of the exact area. We feel that this has been too long delayed and that, in the interest of the miners and other workers in the Saar and of the French Government, it is right the matter should be settled quickly. While therefore we shall support the French over the Saar we cannot support their proposal with regard to the Rhineland and the Ruhr. An arrangement can, we think, be made which would satisfy French security by providing for the maintenance in those territories of an Allied force even after the end of the occupation of the rest of Germany.

As regards the Polish frontier, I will not try to conceal the fact that it was with the greatest reluctance that we agreed at Potsdam to the vast changes upon which our Russian allies insisted. It was inevitable that such enforced large-scale emigration of people should provoke the deepest reaction in Germany and I fear we have not seen the last result of the Polish affair. Our own assent to the provisional arrangements at Potsdam was given in return for various assurances made by the Provisional Polish Government to the effect that they would hold free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot in which all anti-Nazi parties should have the right to take part and put forward candidates, and that representatives of the Allied press should have full freedom to report to the world on developments in Poland before and during the elections. We also secured agreement that the returning soldiers—which has been the subject of so much criticism—should have free entry back into Poland and have the advantage of having the use of lands that would be available. We see no reason why we should finally ratify the cession of this vast territory to Poland without being satisfied that these assurances have been fully carried out. We should also wish to be assured that the Poles would be able to develop this territory so that the economic resources were properly used and that it did not become a wilderness from which Germans had been excluded but which the Poles would be unable to populate.

Germany Must not Become a Permanent Distressed Area

There is a great deal of talk nowadays about the need for putting things right in our zone of Germany. All this talk is very right and very natural. I must say however that people both here and in Germany are apt to see these things rather out of perspective. It must not be forgotten that crimes were committed and millions of Germans were implicated in those crimes and Nuremberg by no means wipes the slate clear. We must behave like decent and sensible human beings and not like Nazis but I appeal to the country not to allow itself to begin indulging in sloppy sentiment. It will not do the Germans any good and it will only result in misleading them. Having regard to the fact that we have had to fight two wars with all their sacrifices, we must now secure a just settlement without fear or favour. It is extremely distasteful to see victorious nations courting a defeated enemy for ideological reasons. The sooner we can get away from this and consider objectively what is demanded by justice and by the long-term interests of Europe and the world the better it will be for ourselves and for Germany as well.

We have also of course a major interest in seeing that Germany does not become a permanent distressed area in the centre of Europe and that the Germans should have a proper and reasonable standard of living. If this distressed area is allowed to develop, it can only result in bringing down with it the standard of life all over Europe including our own and indeed that of the world. Therefore, striking this balance is a very difficult thing to do. We are in Germany partly to clear up the mess which Hitler caused and the Germans would be very much worse off if we were not there. We are of course fully conscious of the need for publicity to make quite sure that our point of view is fully presented to the German people. Instead of indulging in mutual recriminations and accusations against our administration the German political parties, and indeed our own friends at home here, would be well advised to reflect on the present situation of Germany in its European setting and on how all this has been brought about. Only in that way shall we arrive at a useful understanding and they will be able to use their utmost energies to retrieve the past crimes and errors of the Nazis and help Germany to a new place in the society of nations.

2a. FRENCH POLICY

Memorandum Presented to the Council of Foreign Ministers by the French Delegation, Paris, April 25, 1946

During the first session of the Conference of Foreign Ministers which was held at London, the French Delegation presented, on September 14, 1945, a memorandum setting forth its views as to measures relating to the control and administration of Germany.

At the meeting of September 28, it was decided that the French Government would state the details of its proposals through diplomatic channels, and that, following these preliminary conversations, the question would then be submitted for the examination of the Council.

The French position was stated, successively, from October to December 1945, to the British, American, and Soviet Governments, and *aide-mémoire* which summarized that position were sent to the three capitals. Those documents were also communicated to the Governments of Belgium, Luxembourg, the Netherlands, and Czechoslovakia.

The French Delegation considers that the moment has now come for the Council of Foreign Ministers to begin the study of the questions thus presented, with a view to the decisions to be made.

The French projects are predominantly concerned with security.

Germany must be definitively deprived of the war potential which is represented by industry and the reserves of raw material of the Rhine-Westphalian region and that region must no longer constitute a zone of passage, an arsenal, and a base for departure.

In order to allay this concern, the French Government proposes not to have recourse to territorial annexation, but to separate the Ruhr, the Rhineland, and the Saar definitively from Germany by establishing there a regime fitted to carry out the purposes indicated above.

These territories do not constitute, as a whole, an entity on either the political or the economic plane. Different administrations have therefore been proposed for each of the regions which compose them.

1. Ruhr

The territory of the Ruhr consists of coal mines and the factories connected with them. It comprises a population of about five million inhabitants.

In order to guarantee that the natural and industrial wealth of this zone will no longer be exploited for military purposes but in conformity with the general interest of humanity, the Ruhr must be treated as a political entity independent of Germany and subject to a political and economic system of internationalization.

All the countries concerned should have a part in the organization of this regime, a particularly important role falling naturally to the powers most immediately concerned.

The local administration should be appointed as far as possible by the population, which could also obtain, in due time, a part in the functions of the government. An international force would be stationed in this territory, the integrity of which should be guaranteed by all the powers concerned.

The most important mines and industrial enterprises would be expropriated in the international interest and their operation entrusted to enterprises of international public utility.

It is essential that the Ruhr cease to be an integral part of Germany, for if a German government remains responsible for the administration of the Ruhr, if it is in a position to give orders to officials there and to exercise rights of sovereignty, the system of control which the Allies might establish would be fatally ineffective and of short duration.

Furthermore, the mere internationalization of mines and industries would not be sufficient to guarantee the control of the supplying of Germany with raw materials and products capable of being used for armament: a customs control cordon must be established between the Ruhr and Germany.

Nevertheless, a part of the surplus after the balancing of accounts of the Ruhr could be used for a certain period for partial payment of minimum supplies for Germany.

2. *Rhineland*

In the German territories situated on the left bank of the Rhine sufficient military forces should be permanently stationed.

In so far as this stationing is to constitute direct protection for France, that is to say, as far as Cologne, it would be incumbent upon France to provide for it, with the possibility of participation by Belgium and Luxembourg.

Farther to the north, it would, instead, be incumbent upon Belgium and the Netherlands, and, if it deemed fit, upon the United Kingdom, to provide for military occupation.

The Rhineland should be politically and economically separated from the rest of Germany. It might be a question, dependent upon the evolution of local conditions, either of one state subject to inter-Allied military occupation, or of two or three states, each of them being occupied by the troops of one of the Allied powers.

Subject to such occupation and to permanent demilitarization, the government of the state (or the governments of the states) to be created in the Rhineland would be free to manage their own affairs. They would be represented abroad by their own diplomatic services and would have their own monetary and customs systems.

3. *The Saar*

French demands concerning the Saar were presented in the note which the French Government sent on February 18 last to London, Moscow, and Washington on the following bases:

The mines of the Saar, the ownership of which had been given to France by the Treaty of Versailles, should become again the property of the French State and that territory would be included in the French customs and monetary system, the two economies being, furthermore, almost entirely complementary.

The Saar would henceforth be outside the competence of the Berlin Control Council. France would exercise permanent control of the administration of the territory and would take all measures necessary to sever completely the public services of the Saar from those of the Reich.

A French military force sufficient to guarantee domestic tranquillity and supervision of the frontier would be permanently stationed in the Saar. The definitive political status and the nationality of the inhabitants would be fixed later. Henceforth, France would assure the protection abroad of the nationals and interests of the Saar.

Such being the proposals of the French Government with regard to the organization of security west of Germany, it is necessary to complete this statement by the indication of French views as to the general orientation which it would be necessary to give to the organization of Germany herself.

In its memorandum of September 14 last, the French Delegation fully agreed to the provisions of the Potsdam agreements entered into between the American, British, and Soviet Governments, which provide for the decentralization of the political structure of Germany. At the same time it stressed the fact that it would consider as premature the creation of central administrative departments which run the risk of reviving German unitarian tendencies and favoring a return to the formula of a centralized German state.

The French Delegation is, in fact, convinced not only that the time has not yet come to establish a central German government, but that it is a matter of urgency to begin by recreating and developing the regional entities which should constitute the basis of the future Germany.

In each of the zones of occupation, direct administration by the Allies, which could prevail during the early days of the occupation, has already given place and will in the future give more place to control by the local German administrations. Governments have been established in a certain number of German states which are assisted by German advisory organizations. Elections have already been held in the American zone and local constitutions are in course of preparation there. The French Government has also decided to hold elections beginning on the first of September in its zone, and to have constitutions drawn up in each of the states which compose it.

It is on the basis of these states or *Länder*, that it considers that the political structure of Germany must be built in the future, so as to avoid the reestablishment of a centralized state, where the influence of a demilitarized Prussia would continue to predominate in spite of everything.

2b. FRENCH POLICY

Declaration to the Council of Foreign Ministers by the Minister of Foreign Affairs of the Provisional Government of the French Republic, Paris, July 10, 1946

The French Delegation is satisfied that, from the beginning, the new discussion which is opening concerning German problems has dealt with certain general questions which present themselves and has indicated by its scope that it is a question here of the main part of the peace settlement. From the beginning also, differences of opinion have appeared. They make only the more necessary the examination which we are undertaking, for it is perhaps because this examination has hitherto always been postponed that points of view have been divergent and that it appears even now that this divergence is capable of bringing into jeopardy the settlement of these questions, and in consequence the future security of the world.

As to the goal to be followed, I believe that we are in accord here concerning a definition which agrees with that given yesterday by Mr. Molotov, that is to say:

1. Total disarmament of Germany;
2. Destruction of Nazism and promotion of the democratic spirit;
3. Reparations for the countries that have suffered from the war.

I will add that these objectives all tend to make Germany incapable of doing harm, of being again a menace to peace, and, with reference to the third, I will say in that spirit that it appears even more important, in my eyes, to the extent to which it assures the industrial disarmament of Germany than to the extent to which it procures for the occupied and devastated countries the reparations which they have a right to expect, but which, they recognize, can be only partial.

The goal being defined, the means of attaining it should be determined. I have already had occasion to set forth here what the measures are which the French Government considers as being the most urgent and the most essential. I should like now, without going over those measures again in detail, to indicate what the position of the French Delegation is as to the questions raised as a whole.

In our opinion, it is logical to distinguish with respect to time, successively, in chronological order:

The decisions to be made to establish the boundaries of Germany;
The policy of the occupying powers;
The general outlines of the future status of Germany.

1. *The Boundaries of the New Germany*

Nothing serious can be done so long as the borders of post-war

Germany are not fixed, and the occupation authorities cannot, to tell the truth, be expected to undertake a long-range policy as long as they do not know which territories will remain definitively German in the future.

The Potsdam conference made agreements with respect to eastern Germany, which were provisional in principle, but in fact were fundamental, and with which the French Government did not take issue.

It remains to settle the fate of western Germany. I do not wish to go over the French proposals concerning the Ruhr, the Rhineland, and the Saar, except to indicate that we have not changed our position and that it does not appear to us possible to postpone the examination thereof any longer.

2. *Policy of the Occupying Powers*

I propose the following aims:

1. To assure the total disarmament of Germany;
2. To assure the carrying out of the reparations program;
3. To destroy Nazism and to endeavor to promote a democratic spirit and democratic institutions.

The first of these points itself, the execution of which would seem to be obvious one year after the end of the war, might nevertheless raise serious difficulties. I do not see, for my part, how there could be objections to putting into full application the principles stated in June 1945, and I can give the assurance that the French Government is ready to cooperate fully in any measure or inquiry which might be proposed by any of the Allied governments.

The reparations program, which is the result of decisions made in common to fix the level of German industry, is, in our eyes, as I have said, a fundamental element of her disarmament. This shows the primary importance which we attach to it, from this point of view even more than from the point of view of the deliveries which we may expect. Here again, the cooperation of the French authorities is offered without reservation. I should like further to remind you that, in order not to interfere with the execution of the plan, we have accepted, provisionally, the idea of German economic unity, although such unity includes for the moment the western provinces, the territorial separation of which we demand.

Denazification and the restoration of a democratic spirit, like disarmament, are such obvious necessities as to require no further emphasis, except perhaps to say that they will be tasks of long duration and hence bound up with the length of the occupation. It would be illusory, in the opinion of the French Delegation, to think that we could pursue these tasks if, within the near future, we were led, at our common peril, to withdraw from Germany.

The development of democratic institutions is a function of the progress of denazification. Its reforms depend also on the ideas that one may have of the future political organization of Germany. In this respect, the French Government adopts fully the principle submitted at Potsdam of the decentralization and development of the local autonomy.

It is within the framework of the states [*pays*], or *Länder*, that Germany should find again a political life. There can be no question, for the moment, of considering a centralized German government. As to the central administrations which have been so much spoken of, the French Government, as it has always said, is ready to discuss them as soon as the framework of Germany has been fixed. It believes only that it will be necessary to be very careful in this matter, and that technical considerations, valid for the moment, must never prevail over political necessities which are permanently valid.

The central German government may come later, but only when the different states have found a solid base, and we consider that it should be rather the government of a confederated state than of a federal state.

If this combination of military, economic, and political activities constitutes the task of the occupation authorities, it is clear that it is immense, that its accomplishment is barely sketched, and that a very long time will be needed in order to carry it out.

We are aware of the burdens which such an effort implies and of which the shortage of food supplies in the occupation zones represents only a small and even a very small part. But it is a question there of a sacrifice for the peace of the world, a sacrifice which will be amply compensated if we succeed in carrying out our program. In any case, the French Government is convinced that a prolonged occupation is the imperative condition for the success of the enterprise. It is happy to note that the sentiments of the other governments are, if it has rightly understood them, identical.

3. *The Future Status of Germany*

It is only when the occupation ends that the definitive status of Germany will be confirmed. I wish to stress, however, that, in my opinion, it is during the occupation and thanks to the occupation that conditions will be created which will permit the attributing of the epithet of definitive to such status. This status would be characterized in the various categories by total disarmament, the establishment of a new level of German industry, the creation of democratic institutions and of a certain number of states on firm bases, capable of making the new Germany lose its Prussian, centralist, and militaristic character.

The draft treaty proposed by the United States Government to guarantee the disarmament and demilitarization of Germany could constitute, if I may say so, the crown of the edifice. I do not understand how it can interfere with either the reparations program, denazification, or any of the essential and urgent tasks of the occupation authorities. It would not in any way render purposeless the proposals made on the part of the French concerning the status of western Germany. Lastly, it should certainly not mean that the occupation is to end soon.

On all these points, the terms which Mr. Byrnes used seemed to me explicit. Moreover, his plan would have the immense advantage of concretizing the solidarity of the Allies with respect to the ever-possible danger of a military revival of Germany. It would guarantee security in Europe permanently with the indispensable participation of the United States of America.

It is in this spirit that we received the proposals of the American Government and that we are ready to begin studying them at once.

In the same way, we are ready, and anxious, to study with the three other governments all the problems relating to Germany, with regard to which I have explained our general views, the most urgent problems being in our eyes the status of the Ruhr, the Rhineland, and the Saar. Any procedure which will bring about general agreement will be considered by us acceptable. In particular, we are willing to take as a basis of discussion the proposal made by Mr. Byrnes to create a Commission of Special Deputies.

The Problem of Coal

It is indeed a question of a vital point, it is a question of coal.

It is indispensable that we have the assurance that the considerable amounts of coal which could be obtained from German mines will be placed at the disposal of the Allied powers and will not be made exclusively and chiefly available for the reconstruction of German industrial power.

It is not a question here of completing long-term measures which we shall include in a treaty, but of making arrangements at once, in order that the control authorities may take into first consideration the restoration needs of the countries bordering on Germany, and particularly of France.

The French representatives have, for several months, been insisting upon this in the Berlin Control Council, but their efforts have not, up to the present time, been crowned with success.

Coal production in Germany is still only at a very low level. We shall certainly be in agreement in considering that it is necessary by every means in our power to increase coal production in order to hasten the improvement of the present economic situation in Germany. I do not hesitate to say this, and also to assure the satisfying of the essential needs of European countries, whose shortage of coal is today so great that it is retarding their economic recovery and constituting a danger for their equilibrium and even for their security.

I feel, consequently, that we must ask qualified experts to proceed without delay to study the possibility of an increase in production and agree among ourselves upon the general principles according to which German production must be distributed, account being taken of the coal requirement of liberated Europe.

I ask, therefore, that the immediate study of this problem be entrusted to qualified experts in order that they may give us a report on the conclusions at which they have arrived, so that we may define the methods according to which the coal shall be distributed, until the minimum quantities which are to be exported are fixed by treaty. Considering that that is a question of determining a policy and general directives, I feel that it is to the Council of Foreign Ministers and not to the Berlin Control Council, an executive agency, that such a report should be addressed.

3. SOVIET POLICY

Statement by Soviet Foreign Minister Molotov at the Council of Foreign Ministers in Paris, July 10, 1946

The time has come when we should discuss the fate of Germany and a peace treaty with that country. The Soviet Government has always held that the spirit of revenge is a poor counsellor in such affairs. It would be equally incorrect to identify Hitler Germany with the German people, although the German people cannot divest themselves of responsibility for Germany's aggression, and for its most grave consequences.

The Soviet people experienced the unparalleled suffering of enemy occupation, as a result of the invasion of the Soviet Union by the German armies. Our losses are great and inestimable. Other peoples of Europe, and not of Europe alone, will long feel the heavy losses and hardships caused by the war which Germany imposed.

It is natural, therefore, that the problem of Germany's fate should be agitating the minds not only of the German people, but also of other peoples who are trying to safeguard themselves for the future, and to prevent a renewal of German aggression. One should also bear in mind the fact that, thanks to her industrial might, Germany is an important link in the whole system of world economy. Nor can one forget that more than once this industrial might has served as the foundation for aggressive Germany's armed might.

Such are the premises from which we must draw our conclusions. I proceed from the fact that, in the interests of world economy and tranquillity in Europe, it would be incorrect to adopt a policy of annihilating Germany as a state, or to agrarianise her, wiping out her main industrial centres.

Such a policy would undermine the economy of Europe, dislocate world economy, and cause a chronic political crisis in Germany, which would spell a threat to peace and tranquillity. I think that, even if we were to adopt such a policy, the course of history would impel us subsequently to renounce it as abortive and groundless.

I think, therefore, that our purpose is not to destroy Germany, but to transform Germany into a democratic and peace-loving state which, next to its agriculture, will have its own industry and foreign trade, but which will be deprived of the economic and military potentiality to rise again as an aggressive force.

While still engaged in the war the Allies declared that they had no intention of destroying the German people. Even at the time when Hitler with overweening presumption openly proclaimed that he wanted to destroy Russia, Stalin, head of the Soviet Government, ridiculing these boastful stupidities, said: "It is no more possible to destroy Germany than to destroy Russia. But the Hitler state can and must be destroyed."

Germany has long held an important position in world economy. While continuing to exist as a single state, Germany will remain an important factor in world trade—which corresponds to other people's interests as well. On the other hand, a policy of annihilating Germany as a state, or agrarianising her and wiping out her principal industrial centres, would cause her to nurture dangerous sentiments of revenge. Such a policy would play into the hands of German reactionaries and deprive Europe of tranquillity and stable peace.

One should look not backward but ahead and concern oneself about what is to be done so that Germany may become a democratic and peace-loving state with a prosperous agriculture, industry, and foreign trade, while lacking the opportunity to revive as an aggressive force. The victory over Germany has given us powerful means of achieving this purpose. It is our duty to utilise them to the full.

It has of late become fashionable to talk about dismembering Germany into several "autonomous" states, about federalising her, and about separating the Ruhr from her. All such proposals originate in the same wish to destroy and agrarianise Germany, for it is obvious that without the Ruhr Germany cannot exist as an independent and viable state. But as I have already said, if the interests of peace and tranquillity are dear to us, the destruction of Germany should not be our objective.

Naturally, if as a result of a plebiscite throughout Germany the German people express their wish to transform Germany into a federal state, or if as a result of a plebiscite in various former German states the desire is manifested to break away from Germany, it goes without saying that we cannot object. In not a few instances the Allied authorities in the western zones of occupation of Germany have encouraged the idea of a federal structure for Germany. But the attitude of the Allied authorities is one thing, while the German people's real desire or the desire of the population of some part of Germany is another.

We Soviet people hold that it is incorrect to impose some particular solution of this question on the German people. Such an imposition would not, in any case, do any good, if only because it would be precarious. If, on the one hand, we should not stand in the way of the German people's rightful aspirations, once their state has revived on democratic lines, it is equally our duty to prevent Germany's rise as an aggressive force. It would be a crime to forget this sacred duty of ours to the peoples of the world.

If the world is to be safeguarded against eventual German aggression, Germany must be completely disarmed, both militarily and economically, and the Ruhr placed under inter-Allied control exercised by our four countries, with the object of preventing the revival of war industries in Germany.

The proposal for the complete military and economic disarmament of Germany is not something new. The decisions of the Berlin conference deal with it in detail. And it is natural that the Ruhr, as the main base of Germany's war industries, should be kept under the vigilant control of the principal Allied powers.

The aim—Germany's complete military and economic disarmament—must also be furthered by a plan for reparations. The fact that until now no such plan has been drawn up, in spite of the repeated demands of the Soviet Government that the relevant decision of the Berlin conference should be carried out, and the fact that the Ruhr has not been placed under inter-Allied control, on which the Soviet Government insisted a year ago, is a dangerous thing, as far as the maintenance of future peace and the security of nations is concerned.

We take the view that it is impossible to put off the accomplishment of these tasks without running the risk of frustrating the decision to carry out the complete military and economic disarmament of Germany.

Such is the view of the Soviet Government regarding the war industry and war potential of Germany.

These considerations cannot hamper the development in Germany of industries serving the needs of peace. In order that such development may benefit other peoples who need German coal, metal, and manufactured products, Germany should be granted the right to export and import and, if this right to foreign trade is to be effectual, we should not hinder Germany from increasing her output of steel, coal, and manufactured products of a peaceful nature, naturally within certain bounds, and on the understanding that inter-Allied control is inevitably established over German industry, and over the Ruhr industries in particular.

As we know, the Control Council in Germany recently fixed the level which would be reached by German industries in the near future. Germany is far from having reached this level as yet. Nevertheless, it should already be admitted that her peaceful industries must be given the opportunity to develop on a wider scale, provided only that this industrial development is really used to satisfy the peaceful needs of the German people and the requirements of trade with other countries.

All this calls for the establishment of proper inter-Allied control over German industry and over the Ruhr industries in particular. Responsibility for the latter cannot rest upon one Allied country alone.

The adoption of an appropriate programme for the development of Germany's peaceful industries, which will provide for the development of her foreign trade as well as for the establishment of inter-Allied control over the whole of German industry, would serve to implement those decisions of the Berlin conference which provide for treating Germany as an economic whole.

It remains for me to dwell on the question of the peace treaty with Germany. Of course we stand in principle for the conclusion of a peace treaty with Germany, but before concluding this treaty there should be set up a single German government sufficiently democratic to be able to extirpate all remnants of Fascism in Germany, and sufficiently responsible to be able to fulfil all its obligations towards the Allies, including more particularly those in respect of reparation deliveries to the Allies.

It goes without saying that we raise no objection to the setting up of a German central administration as a transitional step towards the establishment of a future German government.

From what I have said it follows that, before talking about a peace treaty with Germany, it is necessary to solve the question of setting up an all-German government. To this day, however, no German central administration of any kind whatsoever has been created, although the Soviet Government raised this question at the Berlin conference a year ago.

But while, at that time, consideration of this question was postponed, it is now becoming particularly urgent as the first step towards the establishment of a future German government.

Even when a German government has been set up it will take a number of years to decide what this new German government represents, and whether it is trustworthy.

A future German government must be a democratic government which will be able to extirpate the remnants of Fascism in Germany, and at the same time be able to fulfil Germany's obligations towards the Allies. Amongst other things, and above all, it will be bound to carry out reparation deliveries to the Allies.

Only when we are satisfied that the new German government is able to cope with these tasks, and is really honestly fulfilling them in practice—only then will it be possible to speak seriously of concluding a peace treaty with Germany. Unless this condition is fulfilled Germany cannot claim a peace treaty, and the Allied powers will not be able to say they have fulfilled their duties towards the nations who are demanding that durable peace and security be assured.

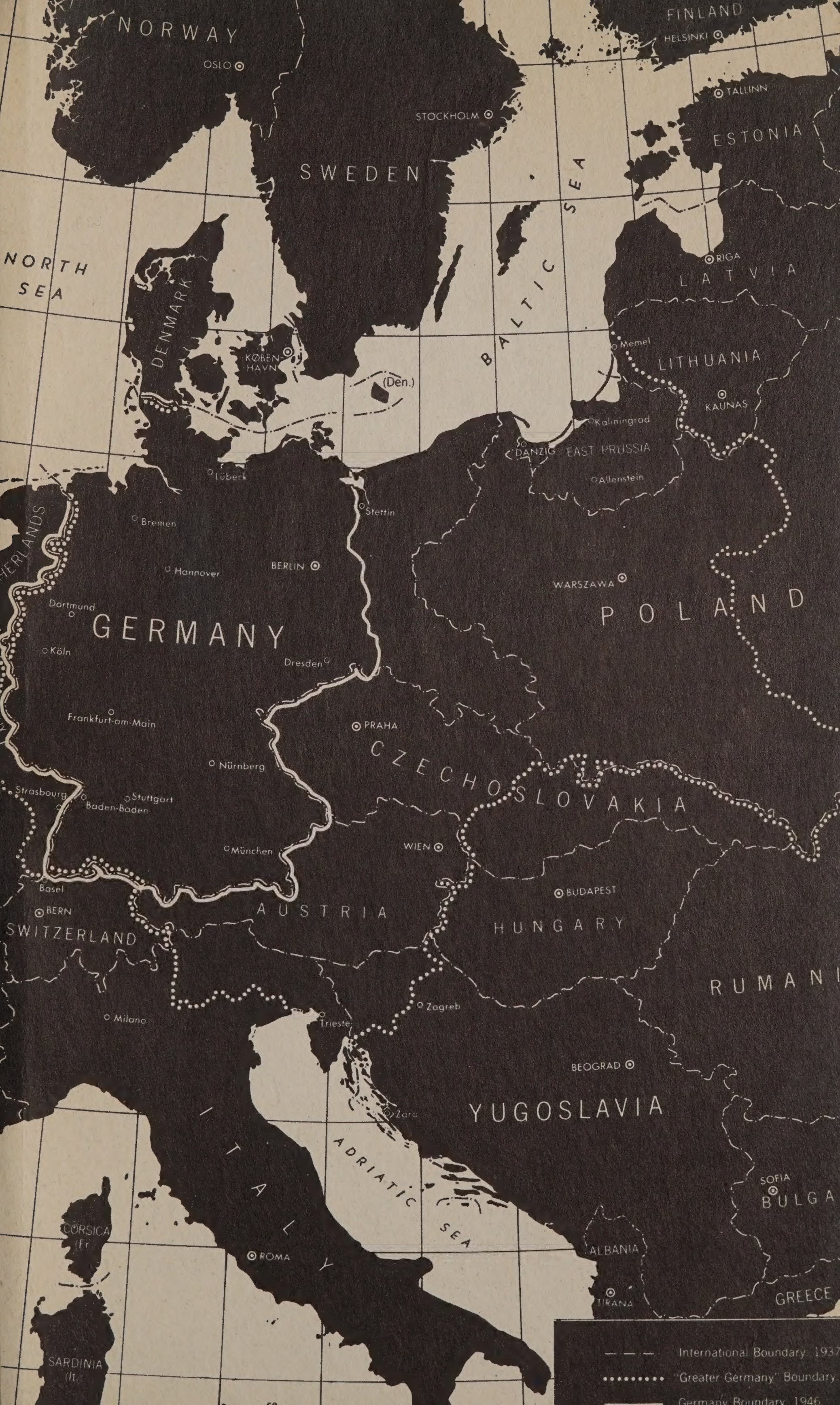
Such is the view of the Soviet Union on the fundamental problems of Germany and on the question of the peace treaty with Germany.

U. S. GOVERNMENT PRINTING OFFICE: 1947

For sale by the Superintendent of Documents, U. S. Government Printing Office
Washington 25, D. C. - Price 75 cents

Date Due

MY 23 '49
MAR 1 '55
~~APR 12 '64~~


NORWAY
OSLO
FINLAND
HELSINKI
TALLINN
ESTONIA
STOCKHOLM
SWEDEN
BALTIC SEA
NORTH SEA
DENMARK
KØBEN-HAVN
(Den.)
RIGA
LATVIA
Memel
LITHUANIA
KAUNAS
Kaliningrad
DANZIG
EAST PRUSSIA
Allenstein
Lübeck
Stettin
Bremen
HERLANDS
Hannover
BERLIN
WARSZAWA
POLAND
Dortmund
GERMANY
Köln
Dresden
Frankfurt-am-Main
PRAHA
CZECHOSLOVAKIA
Nürnberg
Strasbourg
Stuttgart
Baden-Baden
München
WIEN
Basel
BERN
SWITZERLAND
AUSTRIA
BUDAPEST
HUNGARY
RUMANI
Zagreb
Milano
Trieste
BEOGRAD
Zara
YUGOSLAVIA
ADRIATIC SEA
ITALY
SOFIA
BULGA
CORSICA (Fr.)
ROMA
ALBANIA
TIRANA
GREECE
SARDINIA (It.)
International Boundary 1937
"Greater Germany" Boundary
Germany Boundary 1946

DD257 .U58
Occupation of Germany; policy and

Princeton Theological Seminary–Speer Library

1 1012 00060 0926